

[JOINT COMMITTEE PRINT]

**COMPARISON OF PROVISIONS OF H.R. 2676
RELATING TO IRS RESTRUCTURING AND REFORM
AS PASSED BY THE HOUSE AND THE SENATE**

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of the

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the provisions of H.R. 2676 (the “Internal Revenue Service Restructuring and Reform Act”) as passed by the House and the Senate (other than the tax technical corrections provisions, which are contained in a separate staff document).

H.R. 2676 was passed by the House on November 5, 1997,² with an amendment to include (as new Title VI) the “Tax Technical Corrections Act.”³ H.R. 2676 was passed by the Senate, as amended, on May 7, 1998.⁴

Part I of the document is a listing of the identical provisions (including effective dates). Part II is a description of the differing provisions in the House and Senate versions of the bill. A separate document provides a comparison of the estimated budget effects of the House and Senate versions of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Comparison of Provisions of H.R. 2676 Relating to IRS Restructuring and Reform* (JCS-5-98), May 18, 1998.

² See also House Ways and Means Committee Report on H.R. 2676 (H. Rept. 105-364, Part I, October 31, 1997).

³ The Tax Technical Corrections Act provisions were reported by the House Ways and Means Committee in H.R. 2645 (H. Rept. 105-356, October 29, 1997).

⁴ H.R. 2676, as amended, was reported by the Senate Finance Committee on April 22, 1998 (S. Rept. 105-174).

I. LIST OF IDENTICAL PROVISIONS

The following is a list of identical provisions (other than tax technical corrections), including effective dates, in H.R. 2676 as passed by the House and the Senate.

Electronic Filing

- Return-free tax system (sec. 204 of the House bill and sec. 2004 of the Senate amendment)

Taxpayer Rights

- Suspension of statute of limitations on filing refund claims during periods of disability (sec. 322 of the House bill and sec. 3202 of the Senate amendment)
- Limitation on financial status audit techniques (sec. 343 of the House bill and sec. 3412 of the Senate amendment)
- Notice of deficiency to specify deadlines for filing Tax Court petition (sec. 347 of the House bill and sec. 3463 of the Senate amendment)
- Refund or credit of overpayments before final determination (sec. 348 of the House bill and sec. 3464 of the Senate amendment)
- Threat of audit prohibited to coerce tip reporting alternative commitment agreements (sec. 349 of the House bill and sec. 3414 of the Senate amendment)
- Explanation of taxpayers' rights in interviews with the IRS (sec. 352 of the House bill and sec. 3502 of the Senate amendment)
- Disclosure of criteria for examination selection (sec. 353 of the House bill and sec. 3503 of the Senate amendment)

- Cataloging complaints (sec. 372 of the House bill and sec. 3701 of the Senate amendment)
- Archive of records of Internal Revenue Service (sec. 373 of the House bill and sec. 3702 of the Senate amendment)
- Payment of taxes (sec. 374 of the House bill and sec. 3703 of the Senate amendment)
- Clarification of authority of Secretary relating to the making of elections (sec. 375 of the House bill and sec. 3704 of the Senate amendment)

II. DESCRIPTION OF DIFFERING PROVISIONS

Following is a comparison and description of the differing revenue provisions in H.R. 2676, as passed by the House and the Senate, with a summary description of present law for each provision.

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>TITLE I. EXECUTIVE BRANCH GOVERNANCE AND MANAGEMENT OF THE IRS</p> <p>A. IRS Restructuring and Creation of Oversight Board</p> <p>1. Reorganization of the IRS and IRS Mission Statement (secs. 1001 and 1002 of the Senate amendment)</p>	<p>The IRS is currently organized in a 3-tier geographic structure with a multi-functional National Office, Regional Offices, and District Offices.</p> <p>The current IRS mission statement provides that: The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity and fairness.</p>	<p>No provision.</p>	<p>Under the Senate amendment, the Commissioner is to develop and implement a plan to reorganize the IRS. This plan is to eliminate or substantially modify the existing national, regional and district structure of the IRS, and instead establish organizational units servicing particular groups of taxpayers with similar needs. The plan also must ensure an independent appeals function. Savings provisions are provided to preserve specific rights and remedies, preserve the continuing effect of legal documents, ensure that proceedings and suits are not affected, and permit Treasury Department and IRS administrative actions relating</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>2. Creation of IRS Oversight Board (sec. 101 of the House bill and sec. 1101 of the Senate amendment)</p>	<p>Under present law, the administration and enforcement of the internal revenue laws are performed by or under the supervision of the Secretary of the Treasury.</p>	<p><u>Creation of IRS Oversight Board.</u>--The House bill provides for the establishment within the Treasury Department of the Internal Revenue Service Oversight Board (referred to as the "Board").</p> <p><u>General duties of the Board.</u>--Under the House bill, the general responsibilities of the Board are to oversee the IRS in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws. The Board has no responsibilities or authority with respect to (1) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, (2) law enforcement activities of</p>	<p>to promulgation of regulations.</p> <p>The Senate amendment provides that the IRS is to review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.</p> <p><u>Creation of IRS Oversight Board.</u>--Same as House bill.</p> <p><u>General duties of the Board.</u>--Same as the House bill, except that the Board has no authority with respect to specific law enforcement activities or with respect to specific personnel actions (other than for certain management functions). The Board has authority with respect to general law enforcement matters. As part of its oversight authority, the Board is to ensure that the operation and organization of the IRS are efficient to allow it to carry out</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>the IRS, including compliance activities such as criminal investigations, examinations, and collection activities, and (3) specific procurement activities of the IRS (e.g., selecting vendors or awarding contracts).</p> <p><u>Specific duties of Board.</u>-- Under the House bill, the Board is authorized to: (1) to review <u>and approve</u> strategic plans of the IRS, including the establishment of mission and objectives (and standards of performance) and annual and long-range strategic plans; (2) to review the operational functions of the IRS, including plans for modernization of the tax system, outsourcing or managed competition, and training and education; (3) to provide for the review of the Commissioner's selection, evaluation and compensation of senior managers; (4) to review <u>and approve</u> the Commissioner's plans for major reorganization of the IRS; and (5) to approve the Commissioner's selection of a Taxpayer Advocate. In</p>	<p>its mission.</p> <p><u>Specific duties of Board.</u>--Same as House bill, except that the Board's specific duties also include: (1) recommending of 3 candidates to be National Taxpayer Advocate; (2) reviewing of IRS procedures on financial audits required by law; and (3) ensuring proper treatment of taxpayers by IRS employees. The Board's authority to approve major IRS reorganizations does not apply to the reorganization provided by the Senate amendment. The Board is also to ensure that appropriate confidentiality is maintained in the exercise of its duties.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>addition, the Board reviews and approves the budget request of the IRS prepared by the Commissioner.</p> <p><u>Composition of the Board.</u>-- Under the House bill, the Board is composed of 11 members. Eight of the members are so-called "private-life" members who are not Federal officers or employees. These private-life members will be appointed by the President, with the advice and consent of the Senate. The remaining members are (1) the Secretary of the Treasury (or, if the Secretary so designates, the Deputy Secretary of the Treasury), (2) a representative of an organization representing a substantial number of IRS employees, who is appointed by the President with the advice and consent of the Senate, and (3) the Commissioner of the IRS.</p> <p><u>Section 6103 authority.</u>--The members of the Board do not have authority to receive confidential taxpayer return</p>	<p><u>Composition of the Board.</u>-- Same as House bill, except that the Senate amendment provides for 6 private-life members, for a total of 9 Board members.</p> <p><u>Section 6103 authority.</u>--The Board (and staff members of the Board) are authorized to receive confidential taxpayer return</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p data-bbox="556 1307 955 1453"><u>Ethical standards - general rules.</u>--Present law imposes standards of ethical conduct on Federal employees in order to</p>	<p data-bbox="1066 272 1453 344">information (as defined under section 6103 of the Code).</p> <p data-bbox="1066 646 1486 1263"><u>Qualifications of Board members.</u>-- The private-life members of the Board are to be appointed based on their expertise in the following areas: (1) management of large service organizations; (2) customer service; (3) the Federal tax laws, including administration and compliance; (4) information technology; (5) organization development; and (6) the needs and concerns of taxpayers. In the aggregate, the members of the Board should collectively bring to bear expertise in all these enumerated areas.</p> <p data-bbox="1066 1307 1474 1453"><u>Ethical standards - general rules.</u>--The private-life Board members are subject to the ethical conduct rules applicable</p>	<p data-bbox="1581 272 1999 604">information only to the extent provided by the Treasury IG for Tax Administration or the Commissioner in reports or otherwise to assist the Board in carrying out its duties. The Board is not authorized to receive return information regarding taxpayer identity.</p> <p data-bbox="1581 646 1999 928"><u>Qualification of Board members.</u>--Same as House bill, except that areas of expertise also include the needs and concerns of small business. (Modified by floor amendment by Senator Graham, adopted by voice vote.)</p> <p data-bbox="1581 1307 1999 1453"><u>Ethical standards - general rules.</u>--The ethical conduct rules that apply to the private-life Board members depend on</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>avoid conflicts of interest. Criminal penalties are imposed for violations of these standards. In some cases, less strict standards apply to "special government employees" than to regular, full-time Federal government employees. In general, a special government employee is an individual who is expected to serve no more than 130 days during any 365-day period.</p> <p>All Federal employees are precluded from participating personally and substantially in matters that affect the employee's own financial interest or that of persons with certain relationships to the employee. In general, the ethical conduct rules prohibit a regular Federal employee from: (1) representing persons (whether or not for compensation) before the agency in which the employee serves or against the United States; and (2) sharing in compensation from another's representation of persons before</p>	<p>to special government employees who serve more than 60 days during any 365-day period.</p>	<p>whether, under present-law rules, such individuals are classified as special government employees or regular Federal government employees. If the private-life members are special government employees under present law, then, notwithstanding the exceptions for special government employees who have served less than 60 days, the Senate amendment prohibits private-life members from representing anyone before the Board, the IRS, or the Departments of Treasury or Justice on tax-related matters. Regardless of the rules otherwise applicable to special government employees, the private-life Board members are not precluded from sharing in compensation earned by another for representation before the Board, the IRS, Treasury or the Department or Justice.</p> <p>If the private-life Board members are regular Federal employees, as determined under present law, then they are</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>the agency in which the employee serves or against the United States.</p> <p>In the case of a special government employee, the restrictions in (1) and (2) above apply only with respect to matters involving specific parties in which the employee personally and substantially participated in his or her official capacity or which are pending in the agency in which the employee serves.</p> <p>In the case of a special government employee who served less than 60 days in the preceding 365 days, the restrictions in (1) and (2) above apply only with respect to matters involving specific parties in which the special government employee personally and substantially participated in his or her official capacity.</p> <p><u>Ethical standards - post-</u></p>	<p><u>Ethical standards - post-</u></p>	<p>subject to the present-law rules applicable to such employees.</p> <p>The Senate amendment provides a waiver for the IRS employee organization representative for certain conflict-of-interest laws relating to his or her service with the employee organization.</p> <p><u>Ethical standards - post-</u></p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p><u>employment restrictions</u>--Present law imposes post-employment restrictions on senior Federal employees in order to prohibit the unfair use of prior Government employment. One of the post-employment restrictions prohibits senior government employees from representing parties other than the United States before their former department or agency for one year after employment. This restriction does not apply to special government employees who serve less than 60 days in the final 1-year period of service.</p> <p><u>Ethical standards - financial disclosure</u>--Federal government employees compensated at certain pay grades are subject to public financial disclosure requirements. Special government employees who serve less than 60 days in a year are not subject to the public financial disclosure requirements, but are subject to confidential financial disclosure</p>	<p><u>employment restrictions</u>--Under the House bill, private-life Board members are subject to the 1-year post-employment restriction applicable to senior-level employees.</p> <p><u>Ethical standards - financial disclosure</u>--Private-life Board members are subject to the public financial disclosure rules generally applicable to Federal government employees above certain pay grades.</p>	<p><u>employment restrictions</u>--Same as the House bill with respect to private-life Board members. The Senate amendment also applies the 1-year post-employment rule to the employee organization representative, except to the extent he or she is acting in the capacity of a representative of the employee organization.</p> <p><u>Ethical standards - financial disclosure</u>--Same as the House bill with respect to the private-life Board members. The Senate amendment also applies the public financial disclosure requirement to the employee organization representative, and requires the employee organization to provide additional annual financial reports.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>requirements.</p>	<p><u>Term of office.</u>--Under the House bill, the 8 private-life Board members and the employee organization representative generally will be appointed for 5-year terms. The private-life members may serve no more than two 5-year terms. Each 5-year term begins upon appointment. Board member terms are staggered. Private-life members first appointed to the Board serve initial terms of less than 5 years (specifically, 1 member for 1 year, 1 for 2 years, 2 for 3 years, and 2 for 4 years). Any member of the Board can be removed by the President. The Secretary and the Commissioner cease to be Board members upon termination of employment in such positions. The employee organization representative ceases to be a Board member upon termination of his or her affiliation with the employee organization.</p> <p><u>Meetings.</u>--Under the House</p>	<p><u>Term of office.</u>--Same as the House bill, except that under the Senate amendment, the initial staggered terms of private-life members are: 2 members for 2 years, 2 for 4 years, and 2 for 5 years. In addition, the Senate amendment does not include the House bill provision that the employee organization representative ceases to be a member of the Board when he or she ceases to be affiliated with the employee organization.</p> <p><u>Meetings.</u>--The Board is</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>bill, the Board is required to meet at least once a month, and can meet at such other times as the Board determines appropriate.</p> <p><u>Quorum.</u>--The House bill provides that a quorum of 6 members is required in order for the Board to conduct business.</p> <p><u>Staff.</u>--Under the House bill, the Board is not authorized to have its own permanent staff, but will have such staff as detailed by the Commissioner at the request of the Chair of the Board.</p> <p><u>Travel expenses.</u>--Under the House bill, the Board members are allowed travel expenses in order to attend Board meetings.</p> <p>Effective date.--Date of enactment. The President is directed to submit nominations for Board members to the Senate within 6 months of the date of enactment.</p>	<p>required to meet at least quarterly, and at such other times as the Chair determines appropriate.</p> <p><u>Quorum.</u>--Under the Senate amendment, a quorum of 5 members is required for the Board to conduct business.</p> <p><u>Staff.</u>--The Senate amendment provides that the Board is authorized to have a permanent staff, as well as staff detailed through any other Federal agency.</p> <p><u>Travel expenses.</u>--Under the Senate amendment, Board members are allowed to receive travel expenses necessary to the performance of their duties.</p> <p>Effective date.--Same as House bill, except that the Board terminates on September 30, 2008.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>B. Appointment and Duties of IRS Commissioner and Chief Counsel (secs. 102 and 103 of the House bill and sec. 1102(a) of the Senate amendment)</p>	<p><u>Appointment and duties of Commissioner.</u>--Within the Department of the Treasury is a Commissioner of Internal Revenue, who is appointed by the President, with the advice and consent of the Senate. The Commissioner has such duties and powers as may be prescribed by the Secretary. The Secretary has delegated to the Commissioner the administration and enforcement of the internal revenue laws. The Commissioner generally does not have authority with respect to tax policy matters.</p> <p>The Secretary is authorized to employ such persons as the Secretary deems appropriate for the administration and enforcement of the internal revenue laws and to assign posts of duty.</p> <p><u>Appointment and duties of IRS Chief Counsel.</u>--The IRS Chief Counsel, who is the chief law officer for the IRS, is appointed</p>	<p><u>Appointment and duties of Commissioner.</u>--Under the House bill, the Commissioner is appointed to a 5-year term, beginning with the date of appointment. The Board has the power to recommend candidates to the President for Commissioner and to recommend the removal of the Commissioner. The Commissioner has such duties and powers as prescribed by the Secretary. Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party. The Secretary must notify the Congress if he or she determines not to delegate the enumerated powers to the Commissioner.</p> <p><u>Appointment and duties of IRS Chief Counsel.</u>--No provision.</p>	<p><u>Appointment and duties of Commissioner.</u>--Same as House bill, except that the Commissioner also has the power to recommend to the Board candidates for appointment as National Taxpayer Advocate when a vacancy occurs. In addition, the Senate amendment clarifies that the Commissioner can be appointed to more than one 5-year term.</p> <p><u>Appointment and duties of IRS Chief Counsel.</u>--Under the Senate amendment, the Chief Counsel reports directly to the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>by the President, with the advice and consent of the Senate. The Chief Counsel is an Assistant General Counsel of the Treasury, and reports to the General Counsel of the Treasury. The duties of the Chief Counsel derive from the Secretary, who has delegated authority over the Chief Counsel to the Treasury General Counsel. The Treasury General Counsel has delegated to the Chief Counsel the authority to serve as legal advisor to the Commissioner.</p>	<p><u>Effective date.</u>--Date of enactment. The 5-year term of office applies to the Commissioner in office on the date of enactment, and runs from the date of appointment.</p>	<p>Commissioner. The Chief Counsel has such duties and powers as prescribed by the Secretary. Unless otherwise specified by the Secretary, such duties and powers include the duties, specifically enumerated by statute, to: (1) be legal officer to the Commissioner and the Commissioner's officers and employees; (2) furnish legal opinions; (3) prepare proposed legislation, treaties, regulations and Executive Orders relating to laws affecting the IRS; (4) represent the Commissioner in cases before the Tax Court; (5) determine which civil actions should be litigated and make recommendations to the Justice Department. If the Secretary determines not to delegate a power specified above, the Secretary must notify the Congress.</p> <p><u>Effective date.</u>--Same as House bill as to the Commissioner. The provisions relating to the Chief Counsel take effect 90 days after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>C. Structure and Funding of the Employee Plans and Exempt Organizations Division (“EP/EO”) (sec. 102 of the House bill and sec. 1102 of the Senate amendment)</p>	<p><u>Office of EP/EO.</u>--The Employee Retirement Income Security Act of 1974 (“ERISA”) statutorily created within the IRS the Office of Employee Plans and Exempt Organizations (“EP/EO”) under the direction of an Assistant Commissioner. EP/EO oversees deferred compensation plans governed by sections 401-414 of the Code and organizations exempt from tax under Code section 501(a).</p> <p><u>Funding mechanism.</u>-- ERISA authorized the appropriation of an amount equal to the sum of the section 4940 excise tax on investment income of private foundations (assuming a rate of 2 percent) as would have been collected during the second preceding year plus the greater of the same amount or \$30 million. However, amounts raised by the section 4940 excise tax have never been dedicated to the administration of EP/EO, but are transferred instead to general revenues.</p>	<p><u>Office of EP/EO.</u>--The House bill expands EP/EO’s responsibilities to include nonqualified deferred compensation arrangements. The House bill also provides that the Assistant Commissioner shall report annually to the Commissioner on EP/EO operations.</p> <p><u>Funding mechanism.</u>--The House bill repeals the funding mechanism for EP/EO set forth in section 7802(b). Thus, the appropriate level of funding for EP/EO is, consistent with current practice, subject to annual Congressional appropriations, as are other functions within the IRS.</p> <p><u>Effective date.</u>--The provision</p>	<p><u>Office of EP/EO.</u>--The Senate amendment eliminates the statutory requirement contained in section 7802(b) that there be an “Office of Employee Plans and Exempt Organizations” under the supervision and direction of an Assistant Commissioner.</p> <p><u>Funding mechanism.</u>--Same as House bill.</p> <p><u>Effective date.</u>--Same as House</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		is effective on the date of enactment.	bill.

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>D. Taxpayer Advocate and Taxpayer Assistance Orders (secs. 102 and 342 of the House bill and sec. 1102(a), (c), and (d) of the Senate amendment)</p>	<p><u>Taxpayer Advocate.</u>--In 1996, the Taxpayer Bill of Rights 2 (“TBOR 2”) established the position of Taxpayer Advocate, which replaced the position of Taxpayer Ombudsman, created in 1979 by the IRS. The Taxpayer Advocate is appointed by and reports directly to the IRS Commissioner. The functions of the office of the Taxpayer Advocate are (1) to assist taxpayers in resolving problems with the IRS, (2) to identify areas in which taxpayers have problems in dealings with the IRS, (3) to propose changes (to the extent possible) in the administrative practices of the IRS that will mitigate those problems, and (4) to identify potential legislative changes that may mitigate those problems.</p>	<p><u>Appointment and qualifications of Taxpayer Advocate.</u>--The House bill provides that the Taxpayer Advocate is appointed by the Commissioner with the approval of the Oversight Board.</p> <p>The House bill imposes new responsibilities on the Taxpayer Advocate, including monitoring the coverage and geographical allocation of problem resolution officers and developing guidance that outlines criteria to be used by IRS employees in referring taxpayer inquiries to problem resolution officers. The local telephone number for the problem resolution officer in each district should be published and available to taxpayers.</p>	<p><u>Appointment and qualifications of Taxpayer Advocate.</u>--The Senate amendment renames the Taxpayer Advocate the “National Taxpayer Advocate.” The National Taxpayer Advocate is appointed by the Secretary from among 3 individuals recommended by the Oversight Board.</p> <p>The Senate amendment replaces the present-law problem resolution system with a system of local Taxpayer Advocates who report to the National Taxpayer Advocate and who will be independent from the IRS examination, collection, and appeals functions. The IRS is required to publish the taxpayer’s right to contact the local Taxpayer Advocate on the statutory notice of deficiency. The National Taxpayer Advocate is to appoint a counsel to report directly to the National Taxpayer Advocate. (Modified by floor amendments by Sen. Roth and Sen. Grassley, adopted by voice vote.)</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p><u>Reporting requirements.</u>--The Taxpayer Advocate is required to submit two annual reports to the tax-writing committees: (1) the first is due by June 30 and is required to describe the objectives of the Taxpayer Advocate for the next fiscal year and (2) the second is due by December 31 and is required to describe the activities of the Taxpayer Advocate for the</p>	<p>It is intended that the Taxpayer Advocate must have either substantial experience representing taxpayers before the IRS or have substantial experience within the IRS.</p> <p>An individual who is an officer or an employee of the IRS cannot be appointed as the Taxpayer Advocate unless the individual agrees not to accept any employment with the IRS for at least 5 years after ceasing to be the Taxpayer Advocate.</p> <p><u>Reporting requirements.</u>--The House bill modifies the information to be included in the December 31 report to the tax-writing committees to require the report to identify areas of the tax law that impose significant compliance burdens on taxpayers or the IRS and to identify the 10 most litigated issues for each category of taxpayers. The reports of the</p>	<p>The National Taxpayer Advocate must have a background in customer service as well as tax law and experience representing individual taxpayers.</p> <p>An individual may be appointed as the National Taxpayer Advocate only if the individual was not an officer or employee of the IRS during the 2 year period before the appointment and the individual agrees not to accept employment with the IRS for at least 5 years after ceasing to be the National Taxpayer Advocate.</p> <p><u>Reporting requirements.</u>--Same as the House bill, except that the Senate amendment follows present law by providing that the Commissioner may not review the reports of the National Taxpayer Advocate prior to submission to the Congress.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>previous fiscal year, including what the Taxpayer Advocate has done to improve taxpayer services and IRS responsiveness. The reports of the Taxpayer Advocate are to be provided without prior review or comment by the Commissioner, the Secretary, any other officer or employee of the Treasury, or the Office of Management and Budget.</p> <p><u>Taxpayer assistance orders.</u>-- Under present law, taxpayers can request that the Taxpayer Advocate issue a taxpayer assistance order (TAO) if the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered. The direct point of contact for taxpayers seeking TAOs is a problem resolution officer appointed by a District Director or a Regional Director of Appeals. The Taxpayer Advocate has delegated the authority to issue TAOs to the local and regional problem resolution officers.</p>	<p>Taxpayer Advocate may be reviewed by the Commissioner before being submitted to the Congress.</p> <p><u>Taxpayer assistance orders.</u>--The House bill expands the circumstances under which a TAO may be issued to provide that a “significant hardship” is deemed to occur if one of the following four factors exists: (1) there is an immediate threat of adverse action; (2) there has been an unreasonable delay in resolving the taxpayer’s account problems; (3) the taxpayer will have to pay significant costs (including fees for professional services) if relief is not granted; or (4) the taxpayer will suffer irreparable injury, or a long-term adverse impact, if relief is not granted. In determining</p>	<p><u>Taxpayer assistance orders.</u>--Same as the House bill, except that a significant hardship is deemed to occur if there has been a delay of more than 30 days (as opposed to the “unreasonable delay” in the House bill) in resolving the taxpayer’s account problems. In addition, the Senate amendment authorizes the National Taxpayer Advocate to issue a TAO in any circumstances that the Taxpayer Advocate considers appropriate.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>E. Treasury Office of Inspector General; IRS Office of the Chief</p>	<p><u>In general.</u>--Responsibility for oversight and review of IRS operations is currently vested in</p>	<p>whether to issue a TAO in cases in which the IRS failed to follow applicable published guidance (including the Internal Revenue Manual), the Taxpayer Advocate is to construe the matter in a manner most favorable to the taxpayer.</p> <p><u>Effective date.</u>--Date of enactment, except that the post-employment restrictions on the Taxpayer Advocate do not apply to an individual holding that position on the date of enactment.</p> <p>No provision.</p>	<p><u>Effective date.</u>--Generally date of enactment. During the period before the appointment of the IRS Oversight Board, the National Taxpayer Advocate shall be appointed by the Secretary. The provision providing that the Taxpayer Advocate reports directly to the Commissioner, the provision providing that the Taxpayer Advocate is appointed by the Secretary, and the restrictions on previous and subsequent employment of the Taxpayer Advocate do not apply to the individual serving as the Taxpayer Advocate on the date of enactment.</p> <p><u>In general.</u>--The Senate amendment establishes a new, independent, Treasury Inspector</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>Inspector (secs. 1102 and 1103 of the Senate amendment)</p>	<p>two organizations, the Treasury Office of Inspector General (“Treasury IG”) and the IRS Office of the Chief Inspector (“Inspection Service”). The Inspection Service was created in 1951 as a part of the IRS and the Treasury IG was established in 1988 under the Inspector General Act of 1978 (“IG Act”).</p> <p><u>Appointment and qualifications.</u>--The Treasury IG is selected by the President, with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Treasury IG can be removed from office by the President.</p> <p>The Chief Inspector is appointed and can be removed by the IRS Commissioner. The Inspection Service consists of a National</p>		<p>General for Tax Administration (“Treasury IG for Tax Administration”) within the Department of Treasury. The IRS Inspection Service is eliminated, and all of its powers and responsibilities are transferred to the Treasury IG for Tax Administration. The role of the existing Treasury IG is redefined to exclude responsibility for the IRS.</p> <p><u>Appointment and qualifications.</u>--The Treasury IG for Tax Administration is selected in the same manner as is the Treasury IG under present law. In addition to the qualifications applicable to the Treasury IG, the Treasury IG for Tax Administration should have experience in tax administration and demonstrated ability to lead a large and complex organization.</p> <p>The Treasury IG for Tax Administration may not be employed by the IRS within the two years preceding and the five</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>Office and the offices of the four Regional Inspectors who report directly to the Chief Inspector.</p> <p><u>Duties and responsibilities.--</u> The Treasury IG generally is authorized to conduct, supervise and coordinate internal audits and investigations relating to the programs and operations of the Treasury, including all of its bureaus and offices. However, the Treasury IG does not have responsibility for either the internal audit or inspection functions of the IRS Inspection Service. Rather, Treasury IG oversees the internal audits and internal investigations</p> <p>performed by the Inspection Service. However, pursuant to a Memorandum of Understanding between the Commissioner and the Treasury IG, the Treasury</p>		<p>years following his or her appointment. Similarly, any Assistant or Deputy Inspectors General appointed by the Treasury IG for Tax Administration may not be employed by the IRS within the two years preceding and the five years following their appointments.</p> <p><u>Duties and responsibilities.--</u> The Treasury IG for Tax Administration has the duties and responsibilities currently delegated to the Treasury IG with respect to the IRS. In addition, the Treasury IG for Tax Administration assumes all of the duties and responsibilities currently delegated to the IRS Inspection Service.</p> <p>Accordingly, the Treasury IG for Tax Administration is charged with conducting audits, investigations, and evaluations of IRS programs and operations (including the Board), for protecting the IRS against external attempts to corrupt or</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>IG has responsibility for investigating all allegations of misconduct involving IRS executives and managers (Grade 15 and above), as well as any other allegation involving “significant or notorious” matters.</p> <p>The Inspection Service generally is responsible for carrying out internal audits and investigations that: (1) promote the economic, efficient, and effective administration of the nation’s tax laws; (2) detect and deter fraud and abuse in IRS programs and operations; and (3) protect the IRS against external attempts to corrupt or threaten its employees. The Inspection Service is divided into three functions: Internal Security, Internal Audit, and Integrity Investigations and Activities.</p> <p>Under the IG Act of 1978, Inspectors General are instructed to report expeditiously to the Attorney</p>		<p>threaten its employees. In this regard, the Senate amendment specifically directs the Treasury IG for Tax Administration to evaluate the adequacy and security of IRS technology on an ongoing basis.</p> <p>In addition, the Senate amendment directs the Treasury IG for Tax Administration to implement a program periodically to audit a statistically valid sample of all determinations [Floor amendment by Sen. Roth adopted by voice vote] where the IRS has asserted either section 6103 or law enforcement considerations as a rationale for refusing to disclose requested information. The program must be implemented within 6 months after establishment of the Treasury IG for Tax Administration. The Treasury IG for Tax Administration is directed to report any findings of improper assertion of section 6103 or law enforcement considerations to the Board.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law. However, in matters involving criminal violations of the Internal Revenue Code, the Treasury IG may report to the Attorney General only those offenses under section 7214 of the Code (unlawful acts of revenue officers or agents, including extortion, bribery and fraud) without the consent of the Commissioner.</p> <p><u>Authority.</u>--The Treasury IG reports to and is under the general supervision of the Secretary of Treasury, acting through the Deputy Secretary. In general, the Secretary cannot prevent or prohibit the Treasury</p> <p>IG from initiating, carrying out, or completing any audit or investigation or from issuing any subpoena during the course of any audit or investigation. However, section 8D of the IG Act of 1978 grants the Secretary authority to prohibit audits or</p>		<p>Further, the Senate amendment directs the Treasury IG for Tax Administration to establish a toll-free confidential telephone number for taxpayers to register complaints of misconduct by IRS employees and to publish the telephone number in IRS Publication 1.</p> <p>There are no restrictions on the Treasury IG for Tax Administration's ability to refer matters to the Department of Justice.</p> <p><u>Authority.</u>--The Treasury IG for Tax Administration reports to and is under the general supervision of the Secretary of Treasury. Under the Senate amendment, the Secretary cannot prevent or prohibit the</p> <p>Treasury IG for Tax Administration from initiating, carrying out, or completing any audit or investigation or from issuing any subpoena during the course of any audit or investigation.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>investigations by the Treasury IG under certain circumstances that require access to sensitive information.</p> <p>The Chief Inspector derives specific and general authority from delegation by the Commissioner and Deputy Commissioner. In addition, under section 7608(b) of the Code, the Chief Inspector is authorized to perform certain functions in connection with the duty of enforcing any of the criminal provisions of the Code, including executing and serving search and arrest warrants, serving subpoenas and summonses, making arrests without warrant, carrying firearms, and seizing property subject to forfeiture under the Code.</p> <p><u>Access to taxpayer returns and return information.</u>-- The Treasury IG has access to taxpayer returns and return</p>		<p>Under the Senate amendment, the Treasury IG for Tax Administration must provide to the Board all reports regarding IRS matters on a timely basis and conduct audits or investigations requested by the Board. The Treasury IG for Tax Administration also must, in a timely manner, conduct such audits or investigations and provide such reports as may be requested by the Commissioner.</p> <p>In carrying out the duties and responsibilities described above, the Treasury IG for Tax Administration has the present-law authority generally granted to Inspectors General under the IG Act of 1978. In addition, the Treasury IG for Tax Administration has the authority granted to the IRS Inspection Service under present-law Code section 7608.</p> <p><u>Access to taxpayer returns and return information.</u>--The Treasury IG for Tax Administration has access to</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>information under section 6103(h)(1) of the Code. However, such access is subject to certain special requirements, including the requirement that the Treasury IG notify the IRS Inspection Service of its intent to access returns and return information.</p> <p>The Inspection Service has full access to taxpayer returns and return information.</p> <p><u>Reporting requirements.</u>-- Under the IG Act of 1978, the Treasury IG reports to the Congress semiannually on its activities. Reports from the Treasury IG are transmitted to the Committees on Government Reform and Oversight and Ways and Means of the House and the Committees on Governmental Affairs and Finance of the Senate.</p> <p>The Inspection Service reports facts developed through its internal audit and internal security activities to IRS</p>		<p>taxpayer returns and return information under section 6103(h)(1) of the Code, and is not subject to any special requirements.</p> <p><u>Reporting requirements.</u>--The Treasury IG for Tax Administration is subject to the semiannual reporting requirements set forth in section 5 of the IG Act of 1978. As under present law, reports are made to the Committees on Government Reform and Oversight and Ways and Means of the House and the Committees on Governmental Affairs and Finance of the Senate. The reports must contain the information that is required to be reported by the Treasury IG with respect to the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>management officials, who are charged with the responsibility of reviewing IRS activities. The results of the Chief Inspector's internal audit and internal security activities also are reported to the Treasury IG and are included in the Treasury IG's semiannual reports to Congress.</p> <p>Internal audit reports prepared by the Inspection Service are provided monthly to the GAO, as well as to the House and Senate Appropriations Committees. In addition, a monthly list of Internal Audit reports is provided to Treasury and the OMB. Reports of</p> <p>Investigation regarding criminal conduct are referred to the Department of Justice for prosecution.</p> <p><u>Resources.</u>--For fiscal year 1997, the Treasury IG had 296</p>		<p>IRS under present law, as well as information regarding the source, nature and status of taxpayer complaints and allegations of serious misconduct by IRS employees received by the IRS or by the Treasury IG for Tax Administration [Floor amendment by Sen Roth adopted by voice vote]. In addition, the Treasury IG for Tax Administration is required to report annually on certain additional information (e.g., regarding the use of enforcement statistics in evaluating IRS employees, the implementation of various taxpayer rights protections, IRS</p> <p>employee terminations and mitigations, and administrative or civil actions with respect to violations of the fair debt collection provision [Floor amendment by Sen. Kerrey adopted by voice vote]) required by the Senate amendment.</p> <p><u>Resources.</u>--Under the Senate amendment, all but 300 FTEs</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>FTEs and total funding of \$29.7 million. Of the total Treasury IG FTEs, approximately 23 were used for IRS oversight activities in fiscal year 1997. 21 of such FTEs and \$1.9 million were transferred from the IRS appropriation in 1990 pursuant to a Memorandum of Understanding.</p> <p>The Inspection Service had 1,202 FTEs for 1997 and total funding of \$100.1 million. Of these FTEs, approximately 442 performed Internal Audit functions, 511 performed Internal Security functions, and 94 performed Integrity Investigations and Activities. Of the remaining FTEs, approximately 95 were dedicated to information technology functions and 60 staffed the offices of the Chief Inspector and the Regional Inspectors.</p>		<p>from the IRS Inspection Service are transferred to the Treasury IG for Tax Administration. Such FTEs include all of the FTEs performing investigative functions in the Inspection Service's Internal Security and Integrity Investigations and Activities. In addition, the 21 FTEs previously transferred from Inspection to Treasury IG pursuant to the 1990 Memorandum of Understanding to perform oversight of the IRS are transferred to the Treasury IG for Tax Administration.</p> <p>The Commissioner will retain approximately 300 FTEs from the Inspection Service to staff an audit function (including support staff) for internal IRS management purposes. Like other IRS functions, however, this audit function is subject to oversight and review by the Treasury IG for Tax Administration.</p> <p><u>Treasury IG.</u>-- The Treasury IG generally continues to have its present-law</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>responsibilities and authority with respect to all Treasury functions other than the IRS and the Board. However, the Treasury IG generally does not have access to taxpayer returns and return information under section 6103 (unless the Secretary specifically authorizes such access).</p> <p>The Treasury IG for Tax Administration operates independently of the Treasury IG. The Secretary of Treasury is directed to establish procedures pursuant to which the Treasury IG for Tax Administration and the Treasury IG shall coordinate audits and investigations in cases involving overlapping jurisdiction.</p> <p>The Treasury IG continues to have responsibility for providing an opinion on the Department of Treasury's consolidated financial statement as required under the Chief Financial Officer Act. The Treasury IG for Tax Administration is responsible</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>for rendering an opinion on the IRS custodial and administrative accounts (to the extent the GAO does not exercise its option to preempt).</p> <p><u>Effective date.</u>--The transfer of resources and functions to the new Treasury IG for Tax Administration is effective 180 days after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>F. Prohibition on Executive Branch Influence Over Taxpayer Audits (sec. 104 of the House bill and sec. 1105 of the Senate amendment)</p>	<p>There is no explicit prohibition in the Code on high-level Executive Branch influence over taxpayer audits and collection activity.</p> <p>The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding \$5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).</p>	<p>The House bill makes it unlawful for a specified person to request that any officer or employee of the IRS conduct or terminate an audit or otherwise investigate or terminate the investigation of any particular taxpayer with respect to the tax liability of that taxpayer. The prohibition applies to the President, the Vice President, and employees of the executive offices of either the President or Vice President, as well as any individual (except the Attorney General) serving in a position specified in section 5312 of Title 5 of the United States Code (these are generally Cabinet-level positions). The prohibition applies to both direct requests and requests made through an intermediary.</p> <p>Any request made in violation of this rule must be reported by the IRS employee to whom the request was made to the Chief Inspector of the IRS, who has the authority to investigate such</p>	<p>Same as the House bill; in addition, the Senate amendment clarifies that the prohibition applies to direct or indirect requests.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>violations and to refer any violations to the Department of Justice for possible prosecution, as appropriate. Anyone convicted of violating this provision will be punished by imprisonment of not more than 5 years or a fine not exceeding \$5,000 (or both).</p> <p>The general prohibition does not apply (1) to a request made to a specified person by a taxpayer or a taxpayer's representative that is forwarded by the specified person to the IRS; (2) to requests for disclosure of returns or return information under section 6103 if the request is made in accordance with the requirements of section 6103; and (3) to requests made by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.</p> <p><u>Effective date.</u>--The provision applies to violations occurring after the date of enactment.</p>	<p><u>Effective date.</u>--Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>G. Review of Milwaukee and Waukesha IRS Offices (sec. 1106 of the Senate amendment)</p>	<p>The IRS established a task force beginning in January, 1998 to conduct an investigation of the equal employment opportunity process in its Milwaukee and Waukesha, Wisconsin offices.</p>	<p>No provision.</p>	<p>The Senate amendment directs the IRS Commissioner to appoint an independent expert in employment and personnel matters to review the investigation conducted by the task force and report to Congress with recommendations for action not later than July 1, 1999. The review should include a determination of the accuracy and validity of such investigation; and if determined necessary by the expert, a further investigation of such offices relating to:</p> <ul style="list-style-type: none"> (1) the equal employment opportunity process; and (2) any alleged discriminatory employment-related actions, including any alleged violation of Federal law. (Senate floor amendment by Senators Kohl and Feingold, adopted by voice vote.) <p><u>Effective date.</u> - Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>H. IRS Personnel Flexibilities (sec. 111 of the House bill and secs. 1201-1205 of the Senate amendment)</p>	<p>The IRS is subject to the personnel rules and procedures set forth in title 5, United States Code, which regulate hiring, evaluating, promoting, and firing employees. Under these rules, IRS employees generally are classified under the General Schedule or the Senior Executive Service.</p>	<p><u>In general.</u>--The House bill provides certain personnel flexibilities to the IRS, but requires the IRS to exercise the personnel flexibilities consistently with existing rules relating to merit system principles, prohibited personnel practices, and preference eligibles. In those cases in which the exercise of personnel flexibilities would affect members of the employees' union, such employees are not subject to the exercise of any flexibility unless there is a written agreement between the IRS and the employees' union. The written agreement could not be a contract that could be appealed to the Federal Services Impasse Panel.</p> <p><u>Performance management flexibilities.</u>--The House bill requires the IRS to establish a new performance management system within one year from the date of enactment. The performance management</p>	<p><u>In general.</u>--Same as the House bill, except that the Senate amendment provides that negotiation impasses between the IRS and the employees' union could be appealed to the Federal Services Impasse Panel.</p> <p><u>Performance management flexibilities.</u>--Same as the House bill except: (1) the Senate amendment does not require that the IRS establish the performance management system within one year; and (2)</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>system is to maintain individual accountability by (1) establishing at least 2 standards of performance, the lowest of which would be the retention standard and would be equivalent to fully successful performance; (2) providing for periodic performance evaluations to determine whether employees are meeting all applicable retention standards; and (3) use the results of such employee's performance evaluation as a basis for adjustments in pay and other appropriate personnel actions. In addition, the performance management system would provide for (1) establishing goals or objectives for individual, group or organizational performance and taxpayer service surveys; (2) communicating such goals or objectives to employees; and (3) using such goals or objectives to make performance distinctions among employees or groups of employees. It is intended that in</p>	<p>the Senate amendment does not provide for the establishment of at least 2 standards of performance. The Senate amendment permits the IRS to establish one or more retention standards for each employee related to the work of the employee and expressed in terms of performance.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>no event would performance measures be used which rank employees or groups of employees based solely on enforcement results, establish dollar goals for assessments or collections, or otherwise undermine fair treatment of taxpayers.</p> <p><u>Awards.</u>--The House bill addresses three types of awards. First, certain awards for superior accomplishments would continue to require certification to the Office of Personnel Management (OPM), but absent objection from OPM within 60 days, the Commissioner's recommendations for such awards would take effect. As with all awards, these awards would be made based on performance under the new performance management system, and in no case would awards be made (or performance measured) based solely or principally on tax enforcement results.</p>	<p><u>Awards.</u>--Same as the House bill, except that the Senate amendment provides that awards for superior accomplishments between \$10,000 and \$25,000 are not subject to OPM approval.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>The second category of awards relates to the most senior managers in the IRS. The Commissioner has discretion, upon consultation with the IRS Oversight Board established under section 101 of this bill, to make awards of up to 50 percent of salary to such managers, so long as the total compensation for an employee as a result of such an award does not equal or exceed the annual rate of compensation for the Vice President for such calendar year. As with awards for superior accomplishments, OPM would have 60 days to object. The Commissioner would be required to prescribe regulations defining how determinations would be made as to whether an employee is eligible for such awards. In no case, however, would more than 8 employees be eligible to receive such awards in any calendar year.</p> <p>The third category of awards would be based on savings and</p>	<p>Same as the House bill, except that under the second category of awards, the Senate amendment provides the Secretary of Treasury with the authority to award up to 25 IRS senior executives who have responsibility over significant functions of the IRS a performance bonus up to one third of the individual's annual compensation. An individual's total annual compensation, including the bonus, cannot exceed the compensation of the Vice President. No OPM approval is required.</p> <p>Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>would encourage the practice of rewarding employees for developing more efficient methods of administration. A cash award under this category would not be based solely on tax enforcement results.</p> <p><u>Streamlined procedures.</u>--The House bill streamlines the process of taking certain adverse actions for poor performance by (1) reducing the notice period for taking adverse actions from 30 days to 15 days, and (2) prohibiting appeals of the denial of a step increase to the Merit Systems Protections Board.</p> <p><u>Senior management and technical positions.</u>--No provision.</p>	<p><u>Streamlined procedures.</u>--Same as the House bill.</p> <p><u>Senior management and technical positions.</u>--The Senate amendment permits the Secretary of the Treasury to appoint and fix the compensation of up to 40 individuals at any one time to critical technical, professional and management positions. The total annual compensation for any such position could not</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>exceed the rate of pay of the Vice President (currently, \$175,400). The appointments would be for terms of no more than four years and appointees could not have been IRS employees immediately prior to appointment. The authority would be provided to the Secretary for a period of 10 years.</p> <p>The Senate amendment also provides the Secretary with critical position pay authority for other positions, subject to OMB approval. OMB could fix the rate of basic pay at any rate up to the rate of pay of the Vice President.</p> <p>The Senate amendment provides the Secretary with authority and flexibility for a period of 10 years in providing recruitment, retention and relocation incentives for executive and hard-to-fill positions. The authority would be subject to OPM approval.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>Staffing flexibilities.</u>--The House bill provides the IRS with flexibility in filling certain permanent appointments in the competitive service by authorizing the IRS to fill such vacancies with either qualified veterans or qualified temporary employees.</p>	<p>The Senate amendment provides authority to make limited emergency or term appointments to fill SES positions. Appointment of an individual not being appointed immediately from a career or career-conditional position outside the SES would be subject to OPM approval. The number of these appointments will be limited. These appointments will be limited to a 3-year term, with the option of extending the term for 2 more 3-year terms.</p> <p><u>Staffing flexibilities.</u>--The Senate amendment is the same as the House bill except the Senate amendment does not include the requirement that the IRS fill vacancies with qualified veterans.</p> <p>The Senate amendment provides the Secretary with authority to establish one or more broad band pay systems covering all</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>Demonstration projects.</u>--The House bill authorizes the Commissioner to conduct 1 or more demonstration projects to (1) improve personnel management; (2) provide increased individual accountability; (3) eliminate obstacles to the removal of or imposing any disciplinary action with respect to poor performers, subject to the requirements of due process; (4) expedite appeals from adverse actions or performance-based actions; and (5) promote pay based on performance.</p>	<p>or any portion of the IRS workforce.</p> <p>The Senate amendment provides authority to use Voluntary Separation Incentive Pay (buyouts) through December 31, 2002. The use of voluntary separation incentive is not intended to reduce the total number of Full Time Equivalent (“FTE”) positions in the IRS.</p> <p><u>Demonstration projects.</u>--Same as the House bill except the Senate amendment does not include the prohibitions on demonstration projects and would provide the Secretary and OPM the authority to waive the termination of a demonstration project and make it permanent after publishing notice in the Federal Register and informing the appropriate Committees both Houses of Congress at least 90 days before waiving the termination.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>The House bill maintains a number of the existing prohibitions on demonstration projects, including the prohibition on using demonstration projects to waive any requirement of title 5 relating to family and medical leave. The House bill requires the IRS to negotiate a written agreement with the employees' union to the extent that the implementation of a demonstration project affects such employees.</p> <p><u>Mandatory employee terminations.</u>--No provision.</p>	<p><u>Mandatory employee terminations.</u>--The Senate amendment provides that the IRS must terminate an IRS employee for certain violations committed by the employee in connection with the performance of official duties. The violations include: (1) failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>assets; (2) providing a false statement under oath material to a matter involving a taxpayer; (3) falsifying or destroying documents to avoid uncovering mistakes made by the employee with respect to a matter involving a taxpayer; (4) assault or battery on a taxpayer or other IRS employee; (5) violation of the civil rights of a taxpayer or other IRS employee; (6) violations the Internal Revenue Code, Treasury Regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating or harassing a taxpayer or other IRS employee; (7) willful misuse of section 6103 for the purpose of concealing data from a Congressional inquiry; (8) willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause; (9) willful understatement of Federal tax liability, unless such</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>IRS employee training.--No</u></p>	<p>understatement is due to reasonable cause; and (10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit. (Nos. 8, 9 and 10 added by floor amendment by Sen. Gramm, adopted by unanimous consent).</p> <p>The Senate amendment provides non-delegable authority to the Commissioner to determine that factors exist that, in the Commissioner's sole discretion, mitigate against terminating the employee. The Senate amendment also provides the Commissioner with sole discretion to establish a procedure to determine if mitigating factors exist. The Treasury Inspector General for Tax Administration would be required to track employee terminations and mitigations and include such information in the Inspection General's annual report.</p> <p><u>IRS employee training.--The</u></p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>provision.</p> <p><u>Effective date.</u>--Date of enactment.</p>	<p>Senate amendment requires the IRS to provide to the Congressional tax writing committees a comprehensive multi-year plan to: (1) ensure adequate customer service training; (2) review the organizational design of customer service; (3) implement a performance development system; and (4) provide for at least sixteen hours of conflict management training during 1999 for collection employees.</p> <p><u>Effective date.</u>--Generally, same as the House bill. The IRS employee training program would be effective 90 days after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>TITLE II. ELECTRONIC FILING</p> <p>A. Electronic Filing of Tax and Information Returns (sec. 201 of the House bill and sec. 2001 of the Senate amendment)</p>	<p>Treasury Regulations section 1.6012-5 provides that the Commissioner may authorize a taxpayer to elect to file a composite return in lieu of a paper return. An electronically filed return is a composite return consisting of electronically transmitted data and certain paper documents that cannot be electronically transmitted.</p> <p>The IRS periodically publishes a list of the forms and schedules that may be electronically transmitted, as well as a list of forms, schedules, and other information that cannot be electronically filed.</p> <p>During the 1997 tax filing season, the IRS received approximately 20 million individual income tax returns electronically.</p>	<p>The House bill states that the policy of Congress is to promote paperless filing, with a long-range goal of providing for the filing of at least 80 percent of all tax returns in electronic form by the year 2007. The provision requires the Secretary of the Treasury to establish a strategic plan to eliminate barriers, provide incentives, and use competitive market forces to increase taxpayer use of electronic filing. The provision requires all returns prepared in electronic form but filed in paper form to be filed electronically, to the extent feasible, by the year 2002.</p> <p>The provision requires the Secretary to promote electronic filing and to create an electronic commerce advisory group and to report annually to the Congress on electronic filing implementation issues.</p>	<p>Same as the House bill, except as follows. The Senate amendment also states that it is the policy of Congress that electronic filing should be a voluntary option for taxpayers. The Senate amendment also requires that the annual report discuss the effects on small businesses and the self-employed of electronically filing tax and information returns.</p> <p>In addition, the Senate amendment states that the policy of Congress is that the IRS should cooperate with the private sector by encouraging competition to increase electronic filing. (Modified by floor amendments by Sen. Kerrey, adopted by voice vote and by Sens. Bond and Moseley-Braun, adopted by voice vote.)</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>Effective date.</u>--Date of enactment.</p>	<p><u>Effective date.</u>--Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>B. Due Date for Certain Information Returns (sec. 202 of the House bill and sec. 2002 of the Senate amendment)</p>	<p>Information such as the amount of dividends, partnership distributions, and interest paid during the calendar year must be supplied to taxpayers by the payors by January 31 of the following calendar year. The payors must file an information return with the IRS with the information by February 28 of the year following the calendar year for which the return must be filed. Under present law, the due date for filing information returns with the IRS is the same whether such returns are filed on paper, on magnetic media, or electronically. Most information returns are filed on magnetic media (such as computer tapes), which are physically shipped to the IRS.</p>	<p>The House bill provides an incentive to filers of information returns to use electronic filing by extending the due date for filing such returns with the IRS from February 28 (under present law) to March 31 of the year following the calendar year to which the return relates.</p> <p><u>Effective date.</u>--Information returns required to be filed after December 31, 1999.</p>	<p>Same as the House bill except that the Senate amendment also requires the Treasury to issue a study evaluating the merits and disadvantages, if any, of extending the deadline for providing taxpayers with copies of information returns (other than Forms W-2) from January 31 to February 15.</p> <p><u>Effective date.</u>--Same as the House bill, except that the Treasury study is due by December 31, 1998.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>C. Paperless Electronic Filing (sec. 203 of the House bill and sec. 2003 of the Senate amendment)</p>	<p>Code section 6061 requires that tax forms be signed as required by the Secretary. The IRS will not accept an electronically filed return unless it has also received a Form 8453, which is a paper form that contains signature information of the filer.</p> <p>A return generally is considered timely filed when it is received by the IRS on or before the due date of the return. If the requirements of Code section 7502 are met, timely mailing is treated as timely filing. If the return is mailed by registered mail, the dated registration statement is prima facie evidence of delivery.</p> <p>The IRS periodically publishes a list of the forms and schedules that may be electronically transmitted, as well as a list of forms, schedules, and other information that cannot be electronically filed.</p>	<p>The House bill requires the Secretary to develop procedures that would eliminate the need to file a paper form relating to signature information. Until the procedures are in place, the provision authorizes the Secretary to provide for alternative methods of signing all returns, declarations, statements, or other documents or to waive the signature requirement. An alternative method of signature would be treated identically, for both civil and criminal purposes, as a signature on a paper form.</p> <p>The provision also provides rules for determining when electronic returns are deemed filed and for authorization for return preparers to communicate with the IRS on matters included on electronically filed returns.</p> <p>The provision requires the Secretary to establish procedures, to the extent</p>	<p>Same as the House bill, with the following exceptions. (1) The Senate amendment deletes the provision permitting the Secretary to waive the signature requirement. (2) The Secretary of the Treasury must establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. (3) The Secretary of the Treasury must, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form. (Modified by floor amendments by Senators Kerry, Leahy and Ashcroft, adopted by voice vote and by Sens. Ashcroft and Leahy,</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>practicable, to receive all forms electronically for taxable periods beginning after December 31, 1998.</p> <p><u>Effective date.</u>--Effective on the date of enactment.</p>	<p>adopted by unanimous consent.)</p> <p><u>Effective date.</u>--Generally effective on the date of enactment. The provision which relates to Internet access to IRS forms, instructions, publications, and guidance is effective for taxable periods beginning after December 31, 1998.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>D. Access to Account Information (sec. 205 of the House bill and sec. 2005 of the Senate amendment)</p>	<p>Taxpayers who file their returns electronically cannot review their accounts electronically.</p>	<p>The House bill requires the Secretary to develop procedures not later than December 31, 2006, under which a taxpayer filing returns electronically (or the taxpayer's designee under section 6103(c)) could review the taxpayer's own account electronically, but only if all necessary privacy safeguards are in place by that date.</p> <p><u>Effective date.</u>--Date of enactment.</p>	<p>Same as the House bill, except that the Secretary is also required to issue an interim progress report to the tax-writing committees by December 31, 2003.</p> <p><u>Effective date.</u>--Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>TITLE III. TAXPAYER PROTECTION AND RIGHTS</p> <p>A. Burden of Proof (sec. 301 of the House bill and sec. 3001 of the Senate amendment)</p>	<p>Under present law, a rebuttable presumption exists that the Commissioner's determination of tax liability is correct. "This presumption in favor of the Commissioner is a procedural device that requires the plaintiff to go forward with prima facie evidence to support a finding contrary to the Commissioner's determination. Once this procedural burden is satisfied, the taxpayer must still carry the ultimate burden of proof or persuasion on the merits. Thus, the plaintiff not only has the burden of proof of establishing that the Commissioner's determination was incorrect, but also of establishing the merit of its claims by a preponderance of the evidence" (<u>Danville Plywood Corp. v. U.S.</u> , U.S. Cl. Ct., 63 AFTR 2d 89-1036, 1043 (1989).</p> <p>The general rebuttable presumption that the</p>	<p><u>Burden of proof - In general.--</u> The House bill provides that the Secretary has the burden of proof in any court proceeding with respect to a factual issue if the taxpayer asserts a reasonable dispute with respect to any such issue relevant to ascertaining the taxpayer's income tax liability.</p> <p><u>Burden of proof - Cooperation.-</u> -The taxpayer must fully cooperate at all times with the Secretary (including providing, within a reasonable period of time, access to and inspection of</p>	<p><u>Burden of proof - In general.--</u> The Senate amendment provides that the Secretary has the burden of proof in any court proceeding with respect to a factual issue if the taxpayer introduces credible evidence with respect to the factual issue relevant to ascertaining the taxpayer's income tax liability.</p> <p>In the case of court proceedings arising in connection with examinations commencing six months after the date of enactment and before June 1, 2001, the provision applies to any tax liability of the taxpayer. (Modified by floor amendment by Sen. Gramm, adopted by voice vote.)</p> <p><u>Burden of proof - Cooperation.-</u> -The taxpayer must cooperate (instead of fully cooperate) with reasonable requests by the Secretary for meetings, interviews, witnesses,</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>Commissioner's determination of tax liability is correct is a fundamental element of the structure of the Internal Revenue Code. Although this presumption is judicially based, rather than legislatively based, there is considerable evidence that the presumption has been repeatedly considered and approved by the Congress. This is the case because the Internal Revenue Code contains a number of civil provisions that explicitly place the burden of proof on the Commissioner in specifically designated circumstances.</p>	<p>all witnesses, information, and documents within the control of the taxpayer, as reasonably requested by the Secretary).</p> <p><u>Burden of proof - Net worth limitations.</u>--Certain taxpayers must meet the net worth limitations that apply for awarding attorney's fees. In general, corporations, trusts, and partnerships whose net worth exceeds \$7 million are not eligible for the benefits of the provision.</p> <p><u>Burden of proof - Substantiation.</u>--The House bill explicitly states that nothing in the provision shall be construed to override any requirement under the Code or regulations to substantiate any item. Accordingly, taxpayers must meet all applicable substantiation requirements, whether generally imposed or</p>	<p>information, and documents (including providing, within a reasonable period of time, access to and inspection of witnesses, information, and documents within the control of the taxpayer, as reasonably requested by the Secretary).</p> <p><u>Burden of proof - Net worth limitations.</u>--Same as House bill.</p> <p><u>Burden of proof - Substantiation.</u>--Same as House bill, except provides that taxpayers must meet applicable substantiation requirements (instead of all applicable substantiation requirements).</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>imposed with respect to specific items.</p> <p><u>Statistical information.</u>--No provision.</p> <p><u>Penalties.</u>--No provision.</p> <p><u>Effective date.</u>--Court proceedings arising in connection with examinations commencing after the date of enactment.</p>	<p><u>Statistical information.</u>--The Senate amendment also provides that in any instance in which the Secretary uses statistical information from unrelated taxpayers solely to reconstruct an individual taxpayer's income (such as average income for taxpayers in the area in which the taxpayer lives), the burden of proof is on the Secretary with respect to the item of income that was reconstructed by the Secretary.</p> <p><u>Penalties.</u>--The Senate amendment provides that, in any court proceeding, the Secretary must initially come forward with evidence that it is appropriate to apply a particular penalty to the taxpayer before the court can impose the penalty.</p> <p><u>Effective date.</u>--Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>B. Proceedings by Taxpayers</p> <p>1. Expansion of authority to award costs and certain fees (sec. 311 of the House bill and sec. 3101 of the Senate amendment)</p>	<p>Any person who substantially prevails in any action by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding. Reasonable administrative costs are defined as (1) any administrative fees or similar charges imposed by the IRS and (2) expenses, costs and fees related to attorneys, expert witnesses, and studies or analyses necessary for preparation of the case, to the extent that such costs are incurred before the earlier of the date of the notice of decision by IRS Appeals or the notice of deficiency. Net worth limitations apply.</p> <p>Reasonable litigation costs include reasonable fees paid or incurred for the services of</p>	<p>The House bill:</p> <p>(1) Moves the point in time after which reasonable administrative costs can be awarded to the date on which the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals is sent;</p> <p>(2) Provides that the difficulty of the issues presented on the unavailability of local tax expertise can be used to justify an award of attorney’s fees of more than the statutory limit of \$110 per hour;</p> <p>(3) Permits the award of reasonable attorney’s fees to specified persons who represent for no more than a nominal fee a taxpayer who is a prevailing party; and</p> <p>(4) Provides that in determining whether the position of the United States was substantially</p>	<p>The Senate amendment:</p> <p>(1) Is the same as the House bill;</p> <p>(2) Permits awards of reasonable attorney’s fees by deleting the hourly rate caps (and the exceptions to those caps);</p> <p>(3) Is the same as the House bill; and</p> <p>(4) Is the same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>attorneys, except that the attorney's fees will not be reimbursed at a rate in excess of \$110 per hour (indexed for inflation) unless the court determines that a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.</p> <p>Rule 68 of the Federal Rules of Civil Procedure (FRCP) provides a procedure under which a party may recover costs if the party's offer for judgment was rejected and the subsequent court judgment was less favorable to the opposing party than the offer. The offering party's costs are limited to the costs (excluding attorney's fees) incurred after the offer was made. The FRCP generally apply to tax litigation in the district courts and the United States Court of Federal Claims.</p> <p>Code section 7431 permits the award of civil damages for unauthorized inspection or disclosure of return information.</p>	<p>justified, the court shall take into account whether the United States has lost in other courts of appeal on substantially similar issues.</p>	<p>In addition, the Senate amendment:</p> <p>(1) Provides that if a taxpayer makes an offer after the taxpayer has a right to administrative review in the IRS Office of Appeals, the IRS rejects the offer, and later the IRS obtains a judgment against the taxpayer in an amount that is equal to or less than the taxpayer's offer for the amount of the tax liability (excluding interest), reasonable costs and attorney's fees from the date of the offer would be awarded; and</p> <p>(2) Clarifies that the award of attorney's fees is permitted in actions for civil damages for unauthorized inspection or disclosure of taxpayer returns and return information.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>2. Civil damages for collection actions (sec. 312 of the House bill and sec. 3102 of the Senate amendment)</p>	<p>The Federal appellate courts are split over whether a party who substantially prevails over the United States in an action under Code section 7431 is eligible for an award of fees and reasonable costs.</p> <p>A taxpayer may sue the United States for up to \$1 million of civil damages caused by an officer or employee of the IRS who recklessly or intentionally disregards provisions of the Internal Revenue Code or Treasury regulations in connection with the collection of Federal tax with respect to the taxpayer.</p>	<p><u>Effective date.</u>--Eligible costs and services incurred more than 180 days after the date of enactment.</p> <p>The House bill permits up to \$100,000 in civil damages caused by an officer or employee of the IRS who negligently disregards provisions of the Internal Revenue Code or Treasury regulations in connection with the collection of Federal tax with respect to the taxpayer.</p> <p><u>Effective date.</u>--Actions of officers or employees of the IRS occurring after the date of enactment.</p>	<p><u>Effective date.</u>--Same as the House bill.</p> <p>Same as the House bill, except that the provision also permits up to \$1 million in civil damages caused by an officer or employee of the IRS who willfully violates provisions of the Bankruptcy Code relating to automatic stays or discharges. The provision also provides that persons other than the taxpayer may sue for civil damages for unauthorized collection actions.</p> <p><u>Effective date.</u>--Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>3. Increase in size of cases permitted on small case calendar (sec. 313 of the House bill and sec. 3103 of the Senate amendment)</p>	<p>Taxpayers may choose to contest many tax disputes in the Tax Court. Special small case procedures apply to disputes involving \$10,000 or less, if the taxpayer chooses to utilize these procedures (and the Tax Court concurs). The IRS cannot require the taxpayer to use the small case procedures. The Tax Court generally concurs with the taxpayer's request to use the small case procedures, unless it decides that the case involves an issue that should be heard under the normal procedures. After the case has commenced, the Tax Court may order that the small case procedures should be discontinued only if (1) there is reason to believe that the amount in controversy will exceed \$10,000 or (2) justice would require the change in procedure.</p>	<p>The House bill increases the cap for small case treatment from \$10,000 to \$25,000.</p> <p>Effective date.--Proceedings commenced after the date of enactment.</p>	<p>The Senate amendment increases the cap for small case treatment from \$10,000 to \$50,000.</p> <p>Effective date.--Same as the House bill.</p>
<p>4. Expansion of Tax Court jurisdiction</p>	<p>In general, employers are required to withhold income</p>	<p>No provision.</p>	<p>The Senate amendment provides Tax Court jurisdiction over the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>to responsible person penalties (sec. 3104 of the Senate amendment)</p>	<p>taxes and social security taxes from their employee’s wages. These withheld taxes constitute a trust in favor of the United States from the time that the employer deducts them from the employee’s wages, and the employer is liable to the government for the payment of such taxes. All persons considered responsible for the withholding and payment of taxes are subject to a penalty equal to the amount of taxes due where the employer fails to turn over such funds to the government (the “responsible person” penalty, also known as the “100 percent” penalty). Generally, the determination of whether a person is a “responsible person” is a question of the person’s status, duty, and authority in the context of the business which has failed to collect and pay over taxes required to be withheld. A responsible person penalty may also be imposed on a payroll lender.</p>		<p>“responsible person” penalty. Accordingly, the responsible person does not have to make a payment before challenging the imposition of the penalty.</p> <p>Effective date.--Penalties imposed after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>5. Actions for refund with respect to certain estates</p>	<p>The Tax Court has no jurisdiction over the determination of the correctness of the assessment of the responsible person penalty. Accordingly, as the Tax Court is the only pre-payment forum for the determination of tax liability, the imposition of the responsible person penalty can only be challenged in a refund suit in the appropriate district court or the U.S. Court of Federal Claims after payment of such penalty. The responsible person penalty is a divisible tax. Thus, unlike a refund suit for income taxes, a responsible person need not pay the full amount of the assessment to invoke the jurisdiction of the district court or the U.S. Court of Federal Claims. Instead, the alleged responsible person may commence a refund suit after payment of the portion of the penalty attributable to one employee for one quarter.</p> <p>In general, the U.S. Court of Federal Claims and the U.S. district courts have jurisdiction</p>	<p>The House bill grants the U.S. Court of Federal Claims and the U.S. district courts jurisdiction to</p>	<p>Generally same as the House bill, with technical modifications.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>which have elected the installment method of payment (sec. 371 of the House bill and 3105 of the Senate amendment)</p>	<p>over suits for the refund of taxes, as long as full payment of the assessed tax liability has been made. Under Code section 6166, if certain conditions are met, the executor of a decedent’s estate may elect to pay the estate tax attributable to certain closely-held businesses over a 14-year period. Courts have held that U.S. district courts and the U.S. Court of Federal Claims do not have jurisdiction over claims for refunds by taxpayers deferring estate tax payments pursuant to section 6166 unless the entire estate tax liability has been paid. Under section 7479, the U.S. Tax Court has limited authority to provide declaratory judgments regarding initial or continuing eligibility for deferral under section 6166.</p>	<p>determine the correct amount of estate tax liability (or refund) in actions brought by taxpayers deferring estate tax payments under section 6166, as long as certain conditions are met. In order to qualify for the provision, (1) the estate must have made an election pursuant to section 6166, (2) the estate must have fully paid each installment of principal and/or interest due (and all non-6166-related estate taxes due) before the date the suit is filed, (3) no portion of the payments due may have been accelerated, (4) there must be no suits for declaratory judgment pursuant to section 7479 pending, and (5) there must be no outstanding deficiency notices against the estate. In general, to the extent that a taxpayer has previously litigated its estate tax liability, the taxpayer would not be able to take advantage of this procedure under principles of res judicata. Taxpayers are not relieved of the liability to make any installment payments that become due during the pendency of the suit (i.e., failure to make such payments</p>	

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>6. Tax Court jurisdiction to review an adverse</p>	<p>Interest on debt incurred by States or local governments generally is excluded from gross</p>	<p>would subject the taxpayer to the existing provisions of section 6166(g)(3)).</p> <p>The House bill further provides that once a final judgment has been entered by a district court or the U.S. Court of Federal Claims, the IRS is not permitted to collect any amount disallowed by the court, and any amounts paid by the taxpayer in excess of the amount the court finds to be currently due and payable are refunded to the taxpayer, with interest. Lastly, the provision provides that the two-year statute of limitations for filing a refund action is suspended during the pendency of any action brought by a taxpayer pursuant to section 7479 for a declaratory judgment as to an estate's eligibility for section 6166.</p> <p>Effective date.--Claims for refunds filed after the date of enactment.</p> <p>No provision.</p>	<p>Effective date.-- Same as the House bill.</p> <p>The Senate amendment extends the declaratory judgment procedures currently applicable</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>IRS determination of a bond issue's tax-exempt status (sec. 3106 of the Senate amendment)</p>	<p>income if the proceeds of the borrowing are used to carry out governmental functions of those entities and the debt is repaid with governmental funds.</p> <p>A State or local government that seeks to issue bonds, the interest on which is intended to be excludable from gross income, can request a ruling from the IRS regarding the eligibility of such bonds for tax-exemption. The prospective issuer can challenge the IRS's determination (or failure to make a timely determination) in a declaratory judgment proceeding in the Tax Court. Because bondholders, not issuers, are the parties whose tax liability is affected, issuers are not allowed to litigate the tax-exempt status of the bonds directly after the bonds are issued.</p>		<p>to prospective bond issuers to issuers of outstanding bonds. The issuer must provide adequate notice to outstanding bondholders, and the bondholders are authorized to intervene in court proceedings brought under this provision. The statute of limitations on assessment and collection of the tax liability of the bondholders is suspended during the pendency of the proceeding.</p> <p>Effective date.--Determinations of tax-exempt status made after the date of enactment. In the case of a determination under a technical advice memorandum the public release of which occurred within one year of the date of enactment, a pleading may be filed not later than 90 days after the date of enactment.</p>
<p>7. Civil action for release of erroneous lien (sec. 3107 of the Senate amendment)</p>	<p>Prior to 1995, the provisions governing jurisdiction over refund suits had generally been interpreted to apply only if an action was brought by the</p>	<p>No provision.</p>	<p>The Senate amendment creates an administrative procedure permitting a record owner of property against which a Federal tax lien has been filed to obtain a</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>C. Relief for Innocent Spouses (sec. 321 of the House bill and sec. 3201 of the Senate amendment)</p>	<p>taxpayer against whom tax was assessed. Remedies for third parties from whom tax was collected (rather than assessed) were found in other provisions of the Internal Revenue Code. The Supreme Court has held that a third party who paid another person's tax under protest to remove a lien on the third party's property could bring a refund suit, because she had no other adequate administrative or judicial remedy. The Supreme Court held that parties who are forced to pay another's tax under duress could bring a refund suit, because no other judicial remedy was adequate.</p> <p>Under present law, relief from liability for tax, interest and penalties is available for "innocent spouses" in certain circumstances. To qualify for such relief, the innocent spouse must establish: (1) that a joint</p>	<p>The House bill generally makes innocent spouse status easier to obtain. The bill eliminates all of the understatement thresholds and requires only that the understatement of tax be attributable to an erroneous (and</p>	<p>certificate of discharge of property from the lien as a matter of right. The third party is required to apply to the Secretary of the Treasury for such a certificate and either to deposit cash or to furnish a bond sufficient to protect the lien interest of the United States.</p> <p>The Senate amendment also establishes a judicial cause of action for third parties challenging a lien. The period within which such an action must be commenced is 120 days after the date the certificate of discharge is issued to ensure an early resolution of the parties' interests.</p> <p>Effective date.--Date of enactment.</p> <p>The Senate amendment modifies the innocent spouse provisions to permit a spouse to elect to limit his or her liability for unpaid taxes on a joint return to the spouse's separate liability amount.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>return was made; (2) that an understatement of tax, which exceeds the greater of \$500 or a specified percentage of the innocent spouse's adjusted gross income for the preadjustment (most recent) year, is attributable to a grossly erroneous item of the other spouse; (3) that in signing the return, the innocent spouse did not know, and had no reason to know, that there was an understatement of tax; and (4) that taking into account all the facts and circumstances, it is inequitable to hold the innocent spouse liable for the deficiency in tax. The specified percentage of adjusted gross income is 10 percent if adjusted gross income is \$20,000 or less. Otherwise, the specified percentage is 25 percent.</p> <p>The proper forum for contesting the Secretary's denial of innocent spouse relief is determined by whether an underpayment is asserted or the taxpayer is seeking a refund of</p>	<p>not just a grossly erroneous) item of the other spouse.</p> <p>The House bill provides that innocent spouse relief may be provided on an apportioned basis. A spouse may be relieved of liability for the portion of an understatement of tax even if the spouse knew or had reason to know of other understatements of tax on the same return.</p> <p>The House bill specifically provides that the Tax Court has jurisdiction to review any denial of innocent spouse relief. Except for termination and jeopardy assessments, the Secretary may not levy or proceed in court to collect any tax from a taxpayer claiming innocent spouse status with regard to such tax until the expiration of the 90-day period in which such taxpayer may petition the Tax Court or, if the Tax Court considers such petition, before the decision of the Tax Court has become final.</p>	<p>Items are generally allocated between spouses in the same manner as they would have been allocated had the spouses filed separate returns. The Secretary may prescribe other methods of allocation by regulation. The allocation of items is to be accomplished without regard to community property laws.</p> <p>If a spouse makes the separate liability election, the liability for deficiencies determined after a joint return is filed is allocated to the spouse whose item gives rise to the deficiency.</p> <p>If the deficiency relates to the items of both spouses, the separate liability for the deficiency is allocated between the spouses in the same proportion as the net items taken into account in determining the deficiency.</p> <p>If the deficiency arises as a result of the denial of an item of deduction or credit, the amount of the deficiency allocated to the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>overpaid taxes. Accordingly, the Tax Court may not have jurisdiction to review all denials of innocent spouse relief.</p>	<p>The running of the statute of limitations is suspended in such situations with respect to the spouse claiming innocent spouse status.</p> <p>The House bill requires the Secretary of the Treasury to develop a separate form with instructions for taxpayers to use in applying for innocent spouse relief within 180 days from the date of enactment. An innocent spouse seeking relief under this provision must claim innocent spouse status with regard to any assessment not later than two years after the date of such assessment.</p>	<p>spouse to whom the item of deduction or credit is allocated is limited to the amount of income or tax allocated to such spouse that was offset by the deduction or credit. The remainder of the liability is allocated to the other spouse to reflect the fact that income or tax allocated to that spouse was originally offset by a portion of the disallowed deduction or credit.</p> <p>The separate liability election also applies in situations where the tax shown on a joint return is not paid with the return. In this case, the amount determined under the separate liability election equals the amount that would have been reported by the electing spouse on a separate return. However, if any item of credit or deduction would be disallowed solely because a separate return is filed, the item of credit or deduction will be computed without regard to such prohibition.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>The separate liability election may not be used to create a refund, or to direct a refund to a particular spouse.</p> <p>Special rules apply to prevent the inappropriate use of the election. The election is not available if assets were transferred between the spouses in a fraudulent scheme joined in by both spouses. The election is also not available to the extent the electing spouse had actual knowledge at the time the return was signed that an item on the return is incorrect, unless the return was signed under duress.</p> <p>The limitation on the liability of an electing spouse is increased by the value of any disqualified assets received from the other spouse. Disqualified assets include any property or right to property that was transferred to an electing spouse if the principal purpose of the transfer is the avoidance of tax (including the avoidance of payment of tax). A rebuttable presumption</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>exists that a transfer is made for tax avoidance purposes if the transfer was made less than one year before the earlier of the payment due date or the date of the notice of proposed deficiency. The rebuttable presumption does not apply to transfers pursuant to a decree of divorce or separate maintenance.</p> <p>The election applies to all unpaid taxes under subtitle A of the Internal Revenue Code, including the income tax and the self-employment tax. The election may be made at any time not later than 2 years after collection activities begin with respect to the electing spouse.</p> <p>The Tax Court has jurisdiction of disputes arising from the separate liability election. The Tax Court is authorized to establish rules that would allow the Secretary of the Treasury and the electing spouse to require, with adequate notice, the other spouse to become a party to any proceeding before the Tax Court.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p data-bbox="1066 865 1486 1003">Effective date.--Understate-ments with respect to taxable years beginning after the date of enactment.</p>	<p data-bbox="1570 313 1990 492">The Secretary of the Treasury is required to develop a separate form with instructions for taxpayers to use in electing to limit liability.</p> <p data-bbox="1570 537 1997 821">The Internal Revenue Service should, whenever practicable, send appropriate notifications separately to each spouses. (Modified by floor amendment by Sens. Graham, D'Amato and Feinstein, adopted by unanimous consent.)</p> <p data-bbox="1570 865 1997 1076">Effective date.--Any liability for tax arising after the date of enactment and any liability for tax arising on or before such date, but remaining unpaid as of such date.</p> <p data-bbox="1570 1122 1976 1333">The period during which the election must be made will not expire earlier than 2 years after the date of the first collection activity after the date of enactment.</p> <p data-bbox="1570 1382 1976 1446">An individual may elect under the provision without regard to</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			whether such individual has previously been denied innocent spouse relief under present law.

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>D. Provisions Relating to Interest and Penalties</p> <p>1. Elimination of interest differential on overlapping periods of interest on income tax overpayments and underpayments (sec. 331 of the House bill and sec. 3301 of the Senate amendment)</p>	<p>A taxpayer that underpays its taxes is required to pay interest on the underpayment at a rate equal to the Federal short term interest rate plus three percentage points. A special “hot interest” rate equal to the Federal short term interest rate plus five percentage points applies in the case of certain large corporate underpayments.</p> <p>A taxpayer that overpays its taxes receives interest on the overpayment at a rate equal to the Federal short term interest rate plus two percentage points. In the case of corporate overpayments in excess of \$10,000, this is reduced to the Federal short term interest rate plus one-half of a percentage point.</p> <p>If a taxpayer has an underpayment of tax from one year and an overpayment of tax from a different year that are</p>	<p>The House bill establishes a net interest rate of zero on equivalent amounts of overpayment and underpayment of income tax that exist for any period. Each overpayment and underpayment is considered only once in determining whether equivalent amounts of overpayment and underpayment exist. The special rules that increase the interest rate paid on large corporate underpayments and decrease the interest rate received on corporate underpayments in excess of \$10,000 do not prevent the application of the net zero rate. The provision applies to income taxes and self-employment taxes.</p>	<p>Generally same as the House bill, except that the Senate amendment applies to equivalent amounts of overpayment and underpayment of any taxes imposed by Title 26 (the Internal Revenue Code), and not only income taxes.</p> <p>(Modified by floor amendment by Senator Graham, adopted by unanimous consent.)</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>outstanding at the same time, the IRS will typically offset the overpayment against the underpayment and apply the appropriate interest to the resulting net underpayment or overpayment. However, if either the underpayment or overpayment has been satisfied, the IRS will not typically offset the two amounts, but rather will assess or credit interest on the full underpayment or overpayment at the underpayment or overpayment rate. This has the effect of assessing the underpayment at the higher underpayment rate and crediting the overpayment at the lower overpayment rate. This results in the taxpayer being assessed a net interest charge, even if the amounts of the overpayment and underpayment are the same.</p> <p>The Secretary has the authority to credit the amount of any overpayment against any liability under the Code.</p>		

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>2. Increase in overpayment rate payable to taxpayers other than corporations (sec. 332 of the</p>	<p>Congress has previously directed the Internal Revenue Service to implement procedures for “netting” overpayments and underpayments to the extent a portion of tax due is satisfied by a credit of an overpayment.</p> <p>A taxpayer that underpays its taxes is required to pay interest on the underpayment at a rate equal to the Federal short-term interest rate (AFR) plus three percentage points. A taxpayer</p>	<p><u>Effective date.</u>--Interest for calendar quarters beginning after the date of enactment.</p> <p>The House bill provides that the overpayment interest rate will be AFR plus three percentage points, except that for corporations, the rate remains at</p>	<p><u>Effective date.</u>--Same as House bill. In addition, the provision applies to interest for periods beginning before the date of enactment if: (1) the statute of limitations has not expired with respect to either the underpayment or overpayment, (2) the taxpayer identifies the periods of underpayment and overpayment for which the zero rate applies, and (3) on or before December 31, 1999 the taxpayer asks the Secretary to apply the zero rate.</p> <p>Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>House bill and sec. 3302 of the Senate amendment)</p>	<p>that overpays its taxes receives interest on the overpayment at a rate equal to the Federal short-term interest rate (AFR) plus two percentage points.</p>	<p>AFR plus two percentage points.</p> <p><u>Effective date.</u>--Interest for calendar quarters beginning after the date of enactment.</p>	<p><u>Effective date.</u>--Interest for the second and succeeding calendar quarters beginning after the date of enactment. (Modified by floor amendment by Sen. Dodd (for Sen. Moynihan) adopted by voice vote.)</p>
<p>3. Modification of penalty for individual's failure to pay during period of installment agreement (sec. 376 of the House bill and sec. 3303 of the Senate amendment)</p>	<p>Taxpayers who fail to pay their taxes are subject to a penalty of one-half percent per month on the unpaid amount, up to a maximum of 25 percent. If the liability is shown on the return, the penalty begins to accrue on the date prescribed for payment of the tax (with regard to extensions). If the liability should have been shown on the return but was not, the penalty generally begins to accrue after the date that is 21 days from the date of the IRS notice and demand for payment with respect to such liability. Tax-</p>	<p>The House bill provides that the penalty for failure to pay taxes is not imposed with respect to the tax liability of an individual with respect to any month in which an installment payment agreement with the IRS is in effect to the extent that doing so would result in the cumulative penalty percentage exceeding 9.5 percent (instead of 25 percent).</p>	<p>The Senate amendment provides that the penalty for failure to pay taxes is not imposed with respect to the tax liability of an individual for any month in which an installment payment agreement with the IRS is in effect, provided that the individual filed the tax return in a timely manner (including extensions).</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>4. Mitigation of failure to deposit penalty (sec. 3304 of the Senate amendment)</p>	<p>payers who make installment payments pursuant to an agreement with the IRS are also subject to this penalty.</p> <p>Deposits of payroll taxes are allocated to the earliest period for which such a deposit is due. If a taxpayer misses or makes an insufficient deposit, later deposits will first be applied to satisfy the shortfall for the earlier period; the remainder is then applied to satisfy the obligation for the current period. Cascading penalties may result as payments that would otherwise be sufficient to satisfy current liabilities are applied to satisfy earlier shortfalls. The Secretary may waive the failure to make deposit penalty for inadvertent</p>	<p>Effective date.--Installment agreement payments made after the date of enactment.</p> <p>No provision.</p>	<p>Effective date.--Installment agreement payments made after December 31, 1999. (Modified by floor amendment by Sen. Dodd (for Sen. Moynihan) adopted by voice vote.)</p> <p>The Senate amendment allows the taxpayer to designate the period to which each deposit is applied. The designation must be made no later than 90 days of the related IRS penalty notice. The provision also extends the authorization to waive the failure to deposit penalty to the first deposit a taxpayer is required to make after the taxpayer is required to change the frequency of the taxpayer's deposits.</p> <p>Effective date.--Deposits made more than 180 days after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>5. Suspension of interest and certain penalties if Secretary fails to contact individual taxpayer (sec. 3305 of the Senate amendment)</p>	<p>failures by first-time depositors of employment taxes.</p> <p>In general, interest and penalties accrue during periods for which taxes are unpaid without regard to whether the taxpayer is aware that there is tax due.</p>	<p>No provision.</p>	<p>The Senate amendment suspends the accrual of penalties and interest after 1 year if the IRS has not sent the taxpayer a notice of deficiency within 1 year following the date which is the later of (1) the original due date of the return or (2) the date on which the individual taxpayer timely filed the return. The suspension only applies to taxpayers who file a timely tax return. The Senate amendment applies only to individuals and does not apply to the failure to pay penalty, in the case of fraud, or with respect to criminal penalties. Interest and penalties resume 21 days after the IRS sends a notice and demand for payment to the taxpayer.</p> <p><u>Effective date.</u>--Taxable years ending after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>6. Procedural requirements for imposition of penalties and additions to tax (sec. 3306 of the Senate amendment)</p>	<p>Present law does not require the IRS to show how penalties are computed on the notice of penalty. In some cases, penalties may be imposed without supervisory approval.</p>	<p>No provision.</p>	<p>The Senate amendment requires that each notice imposing a penalty include the name of the penalty, the code section imposing the penalty, and a computation of the penalty.</p> <p>The Senate amendment also requires the specific approval of IRS management to assess all non-computer generated penalties unless excepted. This provision does not apply to failure to file penalties, failure to pay penalties, or to penalties for failure to pay estimated tax.</p> <p><u>Effective date.</u>--Notices issued, and penalties assessed, more than 180 days after the date of enactment.</p>
<p>7. Personal delivery of notice of penalty under section 6672 (sec. 3307 of the Senate amendment)</p>	<p>Any person who is required to collect, truthfully account for, and pay over any tax imposed by the Internal Revenue Code who willfully fails to do so is liable for a penalty equal to the amount of the tax. Before the IRS may assess any such “100-percent penalty,” it must mail a</p>	<p>No provision.</p>	<p>The Senate amendment permits in person delivery, as an alternative to delivery by mail, of a preliminary notice that the IRS intends to assess a 100-percent penalty.</p> <p><u>Effective date.</u>--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>8. Notice of interest charges (sec. 3308 of the Senate amendment)</p>	<p>written preliminary notice informing the person of the proposed penalty to that person's last known address. The mailing of such notice must precede any notice and demand for payment of the penalty by at least 60 days. The statute of limitations on assessments shall not expire before the date 90 days after the date on which the notice was mailed. These restrictions do not apply if the Secretary finds the collection of the penalty is in jeopardy.</p> <p>Taxpayer generally must pay interest on amounts due to the IRS.</p>	<p>No provision.</p>	<p>The Senate amendment requires every IRS notice that includes an amount of interest required to be paid by the taxpayer that is sent to an individual taxpayer to include a detailed computation of the interest charged and a citation to the Code section under which such interest is imposed.</p> <p><u>Effective date.</u>--Notices issued after June 30, 2000.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>9. Abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas (sec. 3309 of the Senate amendment)</p>	<p>In the case of a Presidentially declared disaster, the Secretary of the Treasury has the authority to postpone some tax-related deadlines, but there is no authority to abate interest.</p> <p>Under a provision of the Taxpayer Relief Act of 1997, if the Secretary of the Treasury extends the filing date of an individual tax return for individuals living in an area that has been declared a disaster area by the President during 1997, no interest is charged as a result of the failure of the individual taxpayer to file an individual tax return, or pay the taxes shown on such return, during the extension.</p>	<p>No provision.</p>	<p>The Senate amendment provides that taxpayers located in a Presidentially declared disaster area do not have to pay interest on taxes due for the length of any extension for filing their tax returns granted by the Secretary of the Treasury. (Floor amendment by Senators Grams, Boxer and Wellstone passed by voice vote.)</p> <p><u>Effective date.</u>--Disasters declared after December 31, 1996, with respect to taxable years beginning after December 31, 1996.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>E. Protections for Taxpayers Subject to Audit or Collection Activities</p> <p>1. Due process in IRS collection actions (sec. 3401 of the Senate amendment)</p>	<p>Levy is the IRS's administrative authority to seize a taxpayer's property to pay the taxpayer's tax liability. The IRS is entitled to seize a taxpayer's property by levy if the Federal tax lien has attached to such property. The Federal tax lien arises automatically where (1) a tax assessment has been made; (2) the taxpayer has been given notice of the assessment stating the amount and demanding payment; and (3) the taxpayer has failed to pay the amount assessed within ten days after the notice and demand.</p> <p>The IRS may collect taxes by levy upon a taxpayer's property or rights to property (including accrued salary and wages) if the taxpayer neglects or refuses to pay the tax within 10 days after notice and demand that the tax be paid.</p>	<p>No provision.</p>	<p>The Senate amendment establishes formal procedures designed to insure due process where the IRS seeks to collect taxes by levy (including by seizure). The due process procedures also apply after the Federal tax lien attaches, but before the notice of the Federal tax lien has been given to the taxpayer.</p> <p>As under present law, notice of the intent to levy must be given at least 30 days (90 days in the case of a life insurance contract) before property can be seized or salary and wages garnished. During the 30-day (90-day) notice period, the taxpayer may demand a hearing to take place before an appeals officer who has had no prior involvement in the taxpayer's case. If, within that period, the taxpayer demands a hearing, the proposed</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p data-bbox="590 313 989 898">Notice of the IRS's intent to collect taxes by levy must be given no less than 30 days (90 days in the case of a life insurance contract) before the day of the levy. The notice of levy must describe the procedures that will be used, the administrative appeals available to the taxpayer and the procedures relating to such appeals, the alternatives available to the taxpayer that could prevent levy, and the procedures for redemption of property and release of liens.</p> <p data-bbox="590 938 1003 1117">The effect of a levy on salary or wages payable to or received by a taxpayer is continuous from the date the levy is first made until it is released.</p> <p data-bbox="590 1157 999 1409">If the IRS district director finds that the collection of any tax is in jeopardy, collection by levy may be made without regard to either notice period. A similar rule applies in the case of termination assessments.</p>		<p data-bbox="1593 313 1969 492">collection action may not proceed until the hearing has concluded and the appeals officer has issued his or her determination.</p> <p data-bbox="1593 532 2003 865">During the hearing, the IRS is required to verify that all statutory, regulatory, and administrative requirements for the proposed collection action have been met. IRS verifications are expected to include (but not be limited to) showings that:</p> <ol data-bbox="1593 906 2003 1409" style="list-style-type: none"> <li data-bbox="1593 906 1969 1044">(1) the revenue officer recommending the collection action has verified the taxpayer's liability; <li data-bbox="1593 1084 1986 1222">(2) the estimated expenses of levy and sale will not exceed the value of the property to be seized; <li data-bbox="1593 1263 2003 1409">(3) the revenue officer has determined that there is sufficient equity in the property to be seized to yield net

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>proceeds from sale to apply to the unpaid tax liabilities; and</p> <p>(4) with respect to the seizure of the assets of a going business, the revenue officer recommending the collection action has thoroughly considered the facts of the case, including the availability of alternative collection methods, before recommending the collection action.</p> <p>The taxpayer (or affected third party) is allowed to raise any relevant issue at the hearing. Issues eligible to be raised include (but are not limited to):</p> <p>(1) challenges to the underlying liability as to existence or amount;</p> <p>(2) appropriate spousal defenses;</p> <p>(3) challenges to the appropriateness of collection actions; and</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>(4) collection alternatives, which could include the posting of a bond, substitution of other assets, an installment agreement or an offer-in-compromise.</p> <p>Once the taxpayer has had a hearing with respect to an issue, the taxpayer would not be permitted to raise the same issue in another hearing.</p> <p>The determination of the appeals officer is to address whether the proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the taxpayer that the collection action be no more intrusive than necessary.</p> <p>The taxpayer may contest the determination of the appellate officer in Tax Court by filing a petition within 30 days of the date of the determination. The IRS may not take any collection action pursuant to the determination during such</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>30 day period or while the taxpayer's contest is pending in Tax Court.</p> <p>IRS Appeals would retain jurisdiction over its determinations. IRS Appeals could enter an order requiring the IRS collection division to adhere to the original determination. In addition, the taxpayer would be allowed to return to IRS Appeals to seek a modification of the original determination based on any change of circumstances.</p> <p>In the case of a continuous levy, the due process procedures would apply to the original imposition of the levy.</p> <p>This provision does not apply in the case of jeopardy and termination assessments. Jeopardy and termination assessments would be subject to post-seizure review as part of the Appeals determination hearing as well as through any existing judicial procedure. A</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>2. Examination activities</p> <p>a. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners (sec. 341 of the House bill and sec. 3411 of the</p>	<p>A common law privilege of confidentiality exists for communications between an attorney and client with respect to the legal advice the attorney gives the client. The privilege may not be claimed where the purpose of the communication is the commission of a crime or tort. The taxpayer must either be a client of the attorney or be seeking to become a client of the attorney.</p>	<p>The House bill extends the present law attorney-client privilege of confidentiality to tax advice that is furnished by any individual who is authorized to practice before the Internal Revenue Service, acting in a manner consistent with State law for such individual's profession, to a client-taxpayer (or potential client-taxpayer) in any noncriminal proceeding before the Internal Revenue Service.</p>	<p>jeopardy or termination assessment must be approved by the IRS District Counsel responsible for the case. Failure to obtain District Counsel approval would render the jeopardy or termination assessment void.</p> <p>Effective date.--The due process procedures apply to collection actions initiated more than six months after the date of enactment.</p> <p>The Senate amendment generally follows the provision in the House bill with several modifications. The Senate amendment extends the privilege of confidentiality to communications between taxpayers and individuals who are authorized under Federal law to practice before the IRS.</p> <p>The privilege of confidentiality may be asserted in any noncriminal tax proceeding</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>bill and sec. 3413 of the Senate amendment)</p>	<p>material to an inquiry into the correctness of any Federal tax return. The Secretary may issue and serve summonses necessary to obtain such data, including summonses on certain third-party record keepers. There are no specific statutory restrictions on the ability of the Secretary to demand the production of computer records, programs, code or similar materials.</p>	<p>any portion of any third-party tax-related computer source code unless (1) the Secretary is unable to otherwise reasonably ascertain the correctness of an item on a return from the taxpayer's other books, papers, records, other data, or the computer software program and associated data itself and (2) the Secretary first identifies with reasonable specificity the portion of the computer source code to be used to verify the correctness of the item.</p> <p>The Secretary is considered to have satisfied these requirements with regard to the identified portion of the source code if the Secretary makes a formal request for such materials to both the taxpayer and the owner or developer of the software that is not satisfied within 90 days.</p> <p>The Secretary's determination that the identified portion of the third-party tax-related computer source code may be summoned</p>	<p>(1) The prohibitions apply to all computer source code unless developed for the internal use of the taxpayer or a related person.</p> <p>(2) In order to summons source code, the Secretary is required to determine that the need for the source code outweighs the risks of disclosure of the computer source code.</p> <p>(3) The Secretary is considered to have satisfied the requirements to summons source code if (1) the Secretary makes a good faith determination that it is not feasible to determine the correctness of the return item in question without access to the computer software program and associated data, (2) the Secretary makes a formal request for such program and any data from the taxpayer and requests such program from the owner of the source code after reaching such determination, and (3) the Secretary has not received such program and data within 180</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>may be contested in any proceeding to enforce the summons, by any person to whom the summons is addressed. For this purpose, the special procedures for third-party summonses will apply. In any such proceeding, the court may issue any order that is necessary to prevent the disclosure of trade secrets or other confidential information.</p> <p>The prohibition on issuing summons for tax-related computer source code does not apply in connection with any inquiry into any offense connected with the administration or enforcement of the internal revenue laws. A computer software program will not be treated as tax advice for the purpose of the professional-client privilege contained in section 341 of this bill.</p>	<p>days of making the formal request.</p> <p>In addition to authorizing any court enforcing a subpoena to issue any order necessary to prevent the disclosure of confidential information, the Senate amendments establishes a number of specific protections against the disclosure and improper use of trade secrets and confidential information incident to the examination by the Secretary of any computer software program or source code that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer. These protections include the following:</p> <p>(1) Such software or source code may be examined only in connection with the examination of the taxpayer's return with regard to which it was received.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p>(2) Such software or source code must be maintained in a secure area.</p> <p>(3) Such source code may not be removed from the owner's place of business without the owner's consent unless such removal is pursuant to a court order.</p> <p>(4) Such software or source code may not be decompiled or disassembled.</p> <p>(5) Such software or source code may only be copied as necessary to perform the specific examination. The owner of the software must be informed of any copies that are made, such copies must be numbered, and at the conclusion of the examination and any related court proceedings, all such copies must be accounted for and returned to the owner, permanently deleted, or destroyed. The Secretary must provide the owner of such software or source code with the names of any individuals who</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>Effective date.</u>--Summonses</p>	<p>will have access to such software or source code.</p> <p>(6) If an individual who is not an officer or employee of the U.S. Government will examine the software or source code, such individual must enter into a written agreement with the Secretary that such individual will not disclose such software or source code to any person other than authorized employees or agents of the Secretary at any time, and that such individual will not participate in the development of software that is intended for a similar purpose as the summoned software for a period of two years.</p> <p>(e) Criminal penalties are provided where any person willfully divulges or makes known software that was obtained (whether or not by summons) for the purpose of examining a taxpayer's return in violation of this provision.</p> <p><u>Effective date.</u>--Summons</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>c. Taxpayers allowed motion to quash all third-party summonses (sec. 3415 of the Senate amendment)</p>	<p>When the IRS issues a summons to a “third-party recordkeeper” relating to the business transactions or affairs of a taxpayer, notice of the summons must be given to the taxpayer within three days by certified or registered mail. The taxpayer is thereafter given up to 23 days to begin a court proceeding to quash the summons. If the taxpayer does so, third-party recordkeepers are prohibited from complying with the summons until the court rules</p>	<p>issued more than 90 days after the date of enactment.</p> <p>No provision.</p>	<p>issued and software acquired after the date of enactment. In addition, 90 days after the date of enactment, the protections against the disclosure and improper use of trade secrets and confidential information added by the provision (except for the requirement that the Secretary provide a written agreement from non-U.S. government officers and employees) apply to software and source code acquired on or before the date of enactment.</p> <p>The Senate amendment generally expands the current “third-party recordkeeper” procedures to apply to summonses issued to persons other than the taxpayer. Thus, the taxpayer whose liability is being investigated receives notice of the summons and is entitled to bring an action in the appropriate U.S. District Court to quash the summons. As under the current third-party recordkeeper provision, the statute of limitations on assessment and collection is</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>d. Service of summonses to third-party recordkeepers permitted by mail (sec. 3416 of the Senate amendment)</p>	<p>on the taxpayer's petition or motion to quash, but the statute of limitations for assessment and collection with respect to the taxpayer is stayed during the pendency of such a proceeding. Third-party recordkeepers are generally persons who hold financial information about the taxpayer, such as banks, brokers, attorneys, and accountants.</p> <p>A summons must be served “by an attested copy delivered in hand to the person to whom it is directed or left at his last and usual place of abode.” If a third-party recordkeeper summons is served, the IRS may give the taxpayer notice of the summons via certified or registered mail. The Federal Rules of Civil Procedure permits service of process by mail even in summons enforcement proceedings.</p>	<p>No provision.</p>	<p>stayed during the litigation, and certain kinds of summonses specified under present law are not subject to these requirements.</p> <p>Effective date.--Summonses served after the date of enactment.</p> <p>The Senate amendment allows the IRS the option of serving any summons either in person or by mail.</p> <p>Effective date.--Summonses served after the date of enactment.</p>
<p>e. Prohibition on IRS contact of third parties</p>	<p>Third parties may be contacted by the IRS in connection with the examination of a taxpayer or</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS to notify the taxpayer before contacting third parties</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>without taxpayer pre-notification (sec. 3417 of the Senate amendment)</p>	<p>the collection of the tax liability of the taxpayer. The IRS has the right to summon third-party recordkeepers. In general, the taxpayer must be notified of the service of summons on a third party within three days of the date of service. The IRS also has the right to seize property of the taxpayer that is held in the hands of third parties. Except in jeopardy situations, the Internal Revenue Manual provides that IRS will personally contact the taxpayer and inform the taxpayer that seizure of the asset is planned.</p>		<p>regarding examination or collection activities (including summonses) with respect to the taxpayer. Contacts with government officials relating to matters such as the location of assets or the taxpayer's current address are not restricted by this provision. The provision does not apply to criminal tax matters, if the collection of the tax liability is in jeopardy, or if the taxpayer authorized the contact.</p> <p><u>Effective date.</u>--Contacts made after 180 days after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>3. Collection activities</p> <p>a. Approval process for liens, levies, and seizures (sec. 3421 of the Senate amendment)</p> <p>b. Modifications to certain levy exemption amounts (sec.</p>	<p>Supervisory approval of liens, levies or seizures is only required under certain circumstances. For example, a levy on a taxpayer's principal residence is only permitted upon the written approval of the District Director or Assistant District Director.</p> <p>IRS may levy on all non-exempt property of the taxpayer. Property exempt from levy includes up to \$2,500 in value</p>	<p>No provision.</p> <p>No provision.</p>	<p>The Senate amendment requires the IRS to implement an approval process under which any lien, levy or seizure would be approved by a supervisor, who would review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy or seizure is appropriate under the circumstances. Circumstances to be considered include the amount due and the value of the asset.</p> <p><u>Effective date.</u>--Collection actions commenced after date of enactment, except for automated collection system actions initiated before January 1, 2000. (Modified by floor amendment by Senator Dodd (for Senator Moynihan) adopted by voice vote.)</p> <p>The Senate amendment increases the value of personal effects exempt from levy to \$10,000 and the value of books</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>3431 of the Senate amendment)</p>	<p>of fuel, provisions, furniture, and personal effects in the taxpayer's household and up to \$1,250 in value of books and tools necessary for the trade, business or profession of the taxpayer.</p>		<p>and tools exempt from levy to \$5,000. These amounts are indexed for inflation.</p> <p>Effective date.--Levies issued after date of enactment.</p>
<p>c. Release of levy upon agreement that amount is uncollectible (sec. 3432 of the Senate amendment)</p>	<p>Some taxpayers have contended that the IRS does not release a wage levy immediately upon receipt of proof that the tax is not collectible. Instead, the IRS levies on one period's wage payment before releasing the levy.</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS to immediately release a wage levy upon agreement with the taxpayer that the tax is not collectible.</p> <p>Effective date.--Levies imposed after December 31, 1999. (Modified by floor amendment by Senator Dodd (for Senator Moynihan) adopted by voice vote.)</p>
<p>d. Levy prohibited during pendency of refund proceedings (sec. 3433 of the Senate amendment)</p>	<p>The IRS is prohibited from making a tax assessment (and thus prohibited from collecting payment) with respect to a tax liability while it is being contested in Tax Court. However, the IRS is permitted to assess and collect tax liabilities during the pendency of a refund suit relating to such</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS to withhold collection by levy of liabilities that are the subject of a refund suit during the pendency of the litigation. This will only apply when refund suits can be brought without the full payment of the tax, i.e., in the case of divisible taxes. Collection by levy would</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>e. Approval required for jeopardy and termination assessments and jeopardy levies (sec. 3434 of the Senate amendment)</p>	<p>tax liabilities, under the circumstances described below.</p> <p>Generally, full payment of the tax at issue is a prerequisite to a refund suit. However, if the tax is divisible (such as employment taxes or the trust fund penalty under Code section 6672), the taxpayer need only pay the tax for the applicable period before filing a refund claim.</p> <p>In general, a 30-day waiting period is imposed after assessment of all types of taxes. In certain circumstances, the waiting period puts the collection of taxes at risk. The Code provides special procedures that allow the IRS to make jeopardy assessments or termination assessments in certain extraordinary circumstances, such as if the taxpayer is leaving or removing property from the United States,</p>	<p>No provision.</p>	<p>be withheld unless jeopardy exists or the taxpayer waives the suspension of collection in writing (because collection will stop the running of interest and penalties on the tax liability). The statute of limitations on collection is stayed for the period during which the IRS is prohibited from collecting by levy.</p> <p>Effective date.--Refund suits brought with respect to tax years beginning after December 31, 1998.</p> <p>The Senate amendment requires IRS Counsel review and approval before the IRS can make a jeopardy assessment, a termination assessment, or a jeopardy levy. If Counsel's approval is not obtained, the taxpayer is entitled to obtain abatement of the assessment or release of the levy, and, if the IRS fails to offer such relief, to appeal first to IRS Appeals under the new due process</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>f. Increase in amount of certain property on which lien not valid (sec. 3435 of the Senate amendment)</p>	<p>or if assessment or collection would be jeopardized by delay. In jeopardy or termination situations, a levy may be made without the 30-days' notice of intent to levy that is ordinarily required.</p> <p>A Federal tax lien attaches to all property and rights in property of the taxpayer, if the taxpayer fails to pay the assessed tax liability after notice and demand. However, the Federal tax lien is not valid as to certain “superpriority” interests.</p> <p>Two of these interests are limited by a specific dollar amount. Purchasers of personal property at a casual sale are presently protected against a Federal tax lien attached to such property to the extent the sale is for less than \$250. In addition, present law provides protection to mechanic's lienors with respect to the repairs or improvements made to owner-occupied personal residences,</p>	<p>No provision.</p>	<p>procedure for IRS collections and then to court.</p> <p>Effective date.--Taxes assessed and levies made after the date of enactment.</p> <p>The Senate amendment increases the dollar limit for purchasers at a casual sale from \$250 to \$1,000, and further increases the dollar limit from \$1,000 to \$5,000 for mechanics lienors providing home improvement work for owner-occupied personal residences. The Senate amendment indexes these amounts for inflation. The Senate amendment also clarifies the superpriority rules to reflect present banking practices, where a passbook-type loan may be made even though an actual passbook is not used.</p> <p>Effective date.--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>g. Waiver of early withdrawal tax for IRS levies on employer-sponsored retirement plans or IRAs (sec. 3436 of the Senate amendment)</p>	<p>but only to the extent that the contract for repair or improvement is for not more than \$1,000.</p> <p>In addition, a superpriority is granted to banks and building and loan associations which make passbook loans to their customers, provided that those institutions retain the passbooks in their possession until the loan is completely paid off.</p> <p>Under present law, a distribution of benefits from any employer-sponsored retirement plan or an individual retirement arrangement (“IRA”) as a result of an IRS levy are taxed under the same rules applicable to voluntary distributions. Thus, such distributions generally are includible in gross income in the year paid or distributed, except to the extent the amount distributed represents the employee’s after-tax contributions or investment in the contract (i.e., basis).</p>	<p>No provision.</p>	<p>The Senate amendment provides an exception from the 10-percent early withdrawal tax for amounts withdrawn from any employer-sponsored retirement plan or an IRA that are subject to a levy by the IRS. The exception applies only if the plan or IRA is levied; it does not apply, for example, if the taxpayer withdraws funds to pay taxes in the absence of a levy, in order to release a levy on other interests.</p> <p><u>Effective date.</u>--Withdrawals after December 31, 1999.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>h. Prohibition of sales of seized property at less than minimum bid (sec. 3441 of the Senate amendment)</p>	<p>In addition, distributions from qualified plans and IRAs prior to attainment of age 59-1/2 that are includible in income generally are subject to a 10-percent early withdrawal tax, unless an exception to the tax applies.</p> <p>A minimum bid price must be established for seized property offered for sale. To conserve the taxpayer's equity, the minimum bid price should normally be computed at 80 percent or more of the forced sale value of the property less encumbrances having priority over the Federal tax lien. If the group manager concurs, the minimum sales price may be set at less than 80 percent. The taxpayer is to receive notice of the minimum bid price within 10 days of the sale. The taxpayer has the opportunity to challenge the minimum bid price, which cannot be more than the tax liability plus the expenses of sale. Present law does not contemplate a sale of</p>	<p>No provision.</p>	<p>(Modified by floor amendment by Senator Dodd (for Senator Moynihan) adopted by voice vote.)</p> <p>The Senate amendment prohibits the IRS from selling seized property for less than the minimum bid price. The Senate amendment provides that the sale of property for less than the minimum bid price would constitute an unauthorized collection action, which would permit an affected person to sue for civil damages.</p> <p><u>Effective date.</u>--Sales occurring after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>i. Accounting of sales of seized property (sec. 3442 of the Senate amendment)</p>	<p>the seized property at less than the minimum bid price. Rather, if no person offers the minimum bid price, the IRS may buy the property at the minimum bid price or the property may be released to the owner.</p> <p>The IRS is authorized to seize and sell a taxpayer's property to satisfy an unpaid tax liability. The IRS is required to give written notice to the taxpayer before seizure of the property. The IRS must also give written notice to the taxpayer at least 10 days before the sale of the seized property.</p> <p>The IRS is required to keep records of all sales of real property. The records must set forth all proceeds and expenses of the sale. The IRS is required to apply the proceeds first against the expenses of the sale, then against a specific tax liability on the seized property, if any, and finally against any unpaid tax liability of the taxpayer. Any surplus proceeds</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS to provide a written accounting of all sales of seized property, whether real or personal, to the taxpayer. The accounting must include a receipt for the amount credited to the taxpayer's account.</p> <p><u>Effective date.</u>--Seizures occurring after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>j. Uniform asset disposal mechanism (sec. 3443 of the Senate amendment)</p>	<p>are credited to the taxpayer or persons legally entitled to the proceeds.</p> <p>The IRS must sell property seized by levy either by public auction or by public sale under sealed bids. These are often conducted by the revenue officer charged with collecting the tax liability.</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS to implement a uniform asset disposal mechanism for sales of seized property. The disposal mechanism should be designed to remove any participation in the sale of seized assets by revenue officers. The provision authorizes the consideration of outsourcing of the disposal mechanism.</p> <p>Effective date.--Requires a uniform asset disposal system to be implemented within two years from the date of enactment.</p>
<p>k. Codification of IRS administrative procedures for seizure of taxpayer's property (sec. 3444 of the</p>	<p>The Internal Revenue Manual (IRM) provides general guidelines for seizure actions.</p> <p>Prior to the levy action, the revenue officer must determine that there is sufficient equity in the property to be seized to</p>	<p>No provision.</p>	<p>The Senate amendment codifies the IRS administrative procedures which require the IRS to investigate the status of property prior to levy. The Treasury Inspector General for Tax Administration is required to review IRS compliance with</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p data-bbox="237 313 411 378">Senate amendment)</p> <p data-bbox="186 680 447 930">I. Procedures for seizure of residences and businesses (sec. 3445 of the Senate amendment)</p>	<p data-bbox="558 313 972 638">yield net proceeds from the sale to apply to unpaid tax liabilities. If it is determined after seizure that the taxpayer's equity is insufficient to yield net proceeds from sale to apply to the unpaid tax, the revenue officer will immediately release the seized property.</p> <p data-bbox="558 680 978 1411">Subject to certain procedural rules and limitations, the Secretary may seize the property of the taxpayer who neglects or refuses to pay any tax within 10 days after notice and demand. The IRS may not levy on the personal residence of the taxpayer unless the District Director (or the assistant District Director) personally approves in writing or in cases of jeopardy. There are no special rules for property that is used as a residence by parties other than the taxpayer. IRS Policy Statement P-5-34 states that the facts of a case and alternative collection methods must be thoroughly considered</p>	<p data-bbox="1068 680 1247 712">No provision.</p>	<p data-bbox="1583 313 1965 378">seizure procedures and report annually to Congress.</p> <p data-bbox="1583 423 1898 488">Effective date.--Date of enactment.</p> <p data-bbox="1583 680 1976 967">The Senate amendment prohibits the IRS from seizing real property that is used as a residence (by the taxpayer or another person) to satisfy an unpaid liability of \$5,000 or less, including penalties and interest.</p> <p data-bbox="1583 1013 1997 1450">The Senate amendment requires the IRS to exhaust all other payment options before seizing the taxpayer's business assets or principal residence. For this purpose, future income that may be derived by a taxpayer from the commercial sale of fish or wildlife under a specified State permit must be considered in evaluating other payment options before seizing the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p data-bbox="142 753 453 857">4. Provisions relating to examination and collection activities</p> <p data-bbox="191 902 453 1300">a. Procedures relating to extensions of statute of limitations by agreement (sec. 345 of the House bill and sec. 3461 of the Senate amendment)</p>	<p data-bbox="558 313 911 380">before deciding to seize the assets of a going business.</p> <p data-bbox="558 902 974 1446">The statute of limitations within which the IRS may assess additional taxes is generally three years from the date a return is filed. Prior to the expiration of the statute of limitations, both the taxpayer and the IRS may agree in writing to extend the statute. An extension may be for either a specified period or an indefinite period. The statute of limitations within which a tax may be collected after assessment is 10 years after</p>	<p data-bbox="1073 902 1486 1263">The House bill requires that, on each occasion on which the taxpayer is requested by the IRS to extend the statute of limitations, the IRS must notify the taxpayer of the taxpayer's right to refuse to extend the statute of limitations or to limit the extension to particular issues.</p>	<p data-bbox="1583 313 1990 418">taxpayer's business assets. The provision does not apply in cases of jeopardy.</p> <p data-bbox="1583 461 1986 602">(Modified by floor amendment by Senator Roth (for Senator Stevens) adopted by voice vote.)</p> <p data-bbox="1583 644 1898 711">Effective date.--Date of enactment.</p> <p data-bbox="1583 902 1997 1149">The Senate amendment eliminates the provision of present law that allows the statute of limitations on collections to be extended by agreement between the taxpayer and the IRS.</p> <p data-bbox="1583 1198 1990 1446">The Senate amendment also requires that, on each occasion on which the taxpayer is requested by the IRS to extend the statute of limitations on assessment, the IRS must notify the taxpayer of the taxpayer's</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>b. Offers-in-compromise (sec. 346 of the House bill and sec. 3462 of the Senate amendment)</p>	<p>assessment. Prior to the expiration of the statute of limitations on collection, both the taxpayer and the IRS may agree in writing to extend the statute.</p> <p>The Code permits the IRS to compromise a taxpayer's tax liability. An offer-in-compromise is an offer by the taxpayer to settle unpaid tax accounts for less than the full amount of the assessed balance due. An offer-in-compromise may be submitted for all types of taxes, as well as interest and penalties, arising under the Internal Revenue Code.</p>	<p><u>Effective date.</u>--Requests to extend the statute of limitations made after the date of enactment.</p> <p><u>Rights of taxpayers entering into offers-in-compromise.</u>--The House bill requires the IRS to develop and publish schedules of national and local allowances that will provide taxpayers entering into an offer-in-compromise with adequate means to provide for basic living expenses.</p>	<p>right to refuse to extend the statute of limitations or to limit the extension to particular issues.</p> <p><u>Effective date.</u>--Requests to extend the statute of limitations made after December 31, 1999 and to all extensions of the statute of limitations on collection that are open on December 31, 1999. (Modified by floor amendment by Sen. Dodd (for Sen. Moynihan) adopted by voice vote.)</p> <p><u>Rights of taxpayers entering into offers-in-compromise.</u>--Same as the House bill, except as follows. Under the Senate amendment, the IRS also is required to consider the facts and circumstances of a particular taxpayer's case in determining whether the national and local schedules are adequate for that particular taxpayer. If the facts indicate that use of scheduled allowances</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>There are two bases on which an offer can be made: doubt as to liability for the amount owed and doubt as to ability to pay the amount owed.</p> <p>A compromise agreement based on doubt as to ability to pay requires the taxpayer to file returns and pay taxes for five years from the date the IRS accepts the offer. Failure to do so permits the IRS to begin immediate collection actions for the original amount of the liability. The Internal Revenue Manual provides guidelines for revenue officers to determine whether an offer-in-compromise is adequate. An offer is adequate if it reasonably reflects collection potential. Although the revenue officer is instructed to consider the taxpayer's assets and future and present income, the IRM advises that rejection of an offer solely based on narrow asset and income evaluations should be avoided.</p>	<p><u>Suspend collection by levy while offer-in-compromise is pending.</u>--No provision.</p>	<p>would be inadequate under the circumstances, the taxpayer is not limited by the national or local allowances.</p> <p>The Senate amendment prohibits the IRS from rejecting an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer. The Senate amendment provides that, in the case of an offer-in-compromise submitted solely on the basis of doubt as to liability, the IRS may not reject the offer merely because the IRS cannot locate the taxpayer's file. The Senate amendment prohibits the IRS from requesting a financial statement if the taxpayer makes an offer-in-compromise based solely on doubt as to liability.</p> <p><u>Suspend collection by levy while offer-in-compromise is pending.</u>--The Senate amendment prohibits the IRS from collecting a tax liability by levy (1) during any period that a taxpayer's offer-in-compromise</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>Pursuant to the IRM, collection normally is withheld during the period an offer-in-compromise is pending, unless it is determined that the offer is a delaying tactic and collection is in jeopardy.</p>	<p><u>Procedures for reviews of rejections of offers-in-compromise and installment agreements.</u>--No provision.</p>	<p>for that liability is being processed, (2) during the 30 days following rejection of an offer, and (3) during any period in which an appeal of the rejection of an offer is being considered. Taxpayers whose offers are rejected and who made good faith revisions of their offers and resubmitted them within 30 days of the rejection or return would be eligible for a continuous period of relief from collection by levy. This prohibition on collection by levy would not apply if the IRS determines that collection is in jeopardy or that the offer was submitted solely to delay collection. The Senate amendment provides that the statute of limitations on collection would be tolled for the period during which collection by levy is barred.</p> <p><u>Procedures for reviews of rejections of offers-in-compromise and installment agreements.</u>--The Senate amendment requires that the IRS</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>Publication of taxpayer's rights with respect to offers-in-compromise.</u>--The House bill requires the IRS to publish guidance on the rights and obligations of taxpayers and the IRS relating to offers in compromise, including a compliant spouse's right to apply to reinstate an agreement that would otherwise be revoked due to the nonfiling or nonpayment of the other spouse, providing all payments required</p>	<p>implement procedures to review all proposed IRS rejections of taxpayer offers-in-compromise and requests for installment agreements prior to the rejection being communicated to the taxpayer. The Senate amendment requires the IRS to allow the taxpayer to appeal any rejection of such offer or agreement to the IRS Office of Appeals. The IRS must notify taxpayers of their right to have an appeals officer review a rejected offer-in-compromise on the application form for an offer-in-compromise.</p> <p><u>Publication of taxpayer's rights with respect to offers-in-compromise.</u>--Same as the House bill.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>c. IRS procedures relating to appeal of examinations and collections (sec. 3465 of the Senate amendment)</p>	<p>IRS Appeals operates through regional Appeals offices which are independent of the local District Director and Regional Commissioner's offices. In general, IRS Appeals offices have jurisdiction over both pre-assessment and post-assessment</p>	<p>under the compromise agreement are current.</p> <p><u>Liberal acceptance policy.</u>--No provision.</p> <p><u>Effective date.</u>--Date of enactment.</p> <p>No provision.</p>	<p><u>Liberal acceptance policy.</u>--The Senate amendment provides that the IRS will adopt a liberal acceptance policy for offers-in-compromise to provide an incentive for taxpayers to continue to file tax returns and continue to pay their taxes.</p> <p><u>Effective date.</u>--Generally effective for offers-in-compromise submitted after the date of enactment. The provision suspending levy is effective with respect to offers-in-compromise pending on or made after December 31, 1999. (Modified by floor amendment by Sen. Dodd (for Sen. Moynihan) adopted by voice vote.)</p> <p>The Senate amendment codifies existing IRS procedures with respect to early referrals to Appeals and the Collections Appeals Process. The Senate amendment also codifies the existing ADR procedures, as</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>cases. The taxpayer generally has an opportunity to seek Appeals jurisdiction after failing to reach agreement with the Examination function and before filing a petition in Tax Court, after filing a petition in Tax Court (but before litigation), after assessment of certain penalties, after a claim for refund has been rejected by the District Director's office, and after a proposed rejection of an offer-in-compromise in a collection case.</p> <p>In certain cases under Coordinated Examination Program procedures, the taxpayer has an opportunity to seek early Appeals jurisdiction over some issues while an examination is still pending on other issues. The early referral procedures also apply to employment tax issues on a limited basis.</p> <p>A mediation or alternative dispute resolution (ADR) process is also available in certain cases. ADR is used at</p>		<p>modified by eliminating the dollar threshold.</p> <p>In addition, the IRS is required to establish a pilot program of binding arbitration for disputes of all sizes. Under the pilot program, binding arbitration must be agreed to by both the taxpayer and the IRS.</p> <p>The Senate amendment requires the IRS to make Appeals officers available on a regular basis in each State, and consider videoconferencing of Appeals conferences for taxpayers seeking appeals in rural or remote areas.</p> <p><u>Effective date.</u>--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>d. Application of certain fair debt collection practices (sec. 3466 of the Senate amendment)</p>	<p>the end of the administrative process as a final attempt to resolve a dispute before litigation. ADR is currently only available for cases with more than \$10 million in dispute. ADR processes are also available in bankruptcy cases and cases involving a competent authority determination.</p> <p>In April 1996, the IRS implemented a Collections Appeals Program within the Appeals function, which allows taxpayers to appeal lien, levy, or seizure actions proposed by the IRS. In January 1997, appeals for installment agreements proposed for termination were added to the program.</p> <p>The Fair Debt Collection Practices Act provides a number of rules relating to debt collection practices. Among these are restrictions on communication with the consumer, such as a general prohibition on telephone calls outside the hours of 8:00 a.m. to</p>	<p>No provision.</p>	<p>The Senate amendment applies the restrictions relating to communication with the taxpayer/debtor and the prohibitions on harassing or abusing the debtor to the IRS. The restrictions relating to communication with the taxpayer/debtor are not intended</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>e. Guaranteed availability of installment agreements (sec. 3467 of the Senate amendment)</p>	<p>9:00 p.m. local time, and prohibitions on harassing or abusing the consumer. In general, these provisions do not apply to the Federal Government.</p> <p>The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed. An installment agreement does not reduce the amount of taxes, interest, or penalties owed, but does provide for a longer period during which payments may be made during which other IRS enforcement actions (such as levies or seizures) are held in abeyance. The IRS in most instances readily approves these requests if the amounts involved are not large (in general, below \$10,000) and if the taxpayer has</p>	<p>No provision.</p>	<p>to hinder the ability of the IRS to respond to taxpayer inquiries (such as answering telephone calls from taxpayers).</p> <p><u>Effective date.</u>--Date of enactment.</p> <p>The Senate amendment requires the Secretary to enter an installment agreement, at the taxpayer's option, if (1) the liability is \$10,000, or less (excluding penalties and interest); (2) within the previous 5 years, the taxpayer has not failed to file or to pay, nor entered an installment agreement under this provision; (3) if requested by the Secretary, the taxpayer submits financial statements, and the Secretary determines that the taxpayer is unable to pay the tax due in full; (4) the installment agreement provides for full payment of the liability within 3 years; and (5) the taxpayer agrees to continue to comply with the tax laws and the terms of the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>f. Prohibition on requests to taxpayers to waive rights to bring actions (sec. 3468 of the Senate amendment)</p>	<p>filed tax returns on time in the past. Some taxpayers are required to submit background information to the IRS substantiating their application.</p> <p>There is no restriction on the circumstances under which the Government may request a taxpayer to waive the taxpayer's right to sue the United States or one of its employees for any action taken in connection with the tax laws.</p>	<p>No provision.</p>	<p>agreement for the period (up to 3 years) that the agreement is in place.</p> <p>Effective date.--Date of enactment.</p> <p>The Senate amendment provides that the Government may not request a taxpayer to waive the taxpayer's right to sue the United States or one of its employees for any action taken in connection with the tax laws, unless (1) the taxpayer knowingly and voluntarily waives that right, or (2) the request is made to the taxpayer's attorney or other representative. (Floor amendment by Sen. Gramm adopted by voice vote.)</p> <p>Effective date.--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>F. Disclosures to Taxpayers</p> <p>1. Explanation of joint and several liability (sec. 351 of the House bill and sec. 3501 of the Senate amendment)</p> <p>2. Explanation the of appeals and collection process (sec. 354 of the House bill and sec. 3504 of the Senate amendment)</p>	<p>In general, spouses who file a joint tax return are each fully responsible for the accuracy of the tax return and for the full liability. Spouses who wish to avoid such joint and several liability may file as married persons filing separately. Special rules apply in the case of innocent spouses.</p> <p>There is no statutory requirement that specific notices be given to taxpayers with the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals.</p>	<p>The House bill requires that the IRS establish procedures clearly to alert married taxpayers of their joint and several liability on all appropriate tax publications and instructions. The IRS will make an appropriate cross reference to these statements near the signature line on appropriate tax forms.</p> <p>Effective date.--Requires that the procedures be established as soon as practicable, but no later than 180 days after the date of enactment.</p> <p>The House bill requires that an explanation of the appeals process and the collection process be provided with the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals.</p>	<p>Same as the House bill except that the Senate amendment also requires notification of the availability of electing separate liability.</p> <p>Effective date.--Same as the House bill.</p> <p>The Senate amendment requires that, no later than 180 days after the date of enactment, a description of the entire process from examination through collections, including the assistance available to taxpayers from the Taxpayer Advocate at various points in the process, be provided with the first letter of proposed deficiency that allows</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>3. Explanation of reason for refund denial (sec. 3505 of the Senate amendment)</p>	<p>The Examination Division of the IRS examines claims for refund submitted by taxpayers. The Internal Revenue Manual requires examination or other audit action on refund claims within 30 days after receipt of the claims. The refund claim is preliminarily examined to determine if it should be disallowed. The taxpayer will receive a form from the IRS stating that the claim for refund cannot be considered. Other cases will be examined as quickly as possible and the disposition of the case, including the reasons for the disallowance or partial disallowance of the refund claim, must be stated in the portion of the revenue agent's</p>	<p>Effective date.--Requires that the explanation be included as soon as practicable, but no later than 180 days after the date of enactment.</p> <p>No provision.</p>	<p>the taxpayer an opportunity for administrative review in the IRS Office of Appeals.</p> <p>Effective date.--Same as the House bill.</p> <p>The Senate amendment requires the IRS to notify the taxpayer of the specific reasons for the disallowance (or partial disallowance) of the refund claim.</p> <p>Effective date.--180 days after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>4. Statements to taxpayers with installment agreements (sec. 3506 of the Senate amendment)</p>	<p>report that is sent to the taxpayer.</p> <p>A taxpayer entering into an installment agreement to pay tax liabilities due to the IRS must complete a Form 433-D which sets forth the installment amounts to be paid monthly and the total amount of tax due. The IRS does not provide the taxpayer with an annual statement reflecting the amounts paid and the amount due remaining.</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS to send every taxpayer in an installment agreement an annual statement of the initial balance owed, the payments made during the year, and the remaining balance.</p> <p>Effective date.--Effective no later than 180 days after the date of enactment.</p>
<p>5. Notification of change in tax matters partner (sec. 3507 of the Senate amendment)</p>	<p>In general, the tax treatment of items of partnership income, loss, deductions and credits are determined at the partnership level in a unified partnership proceeding rather than in separate proceedings with each partner. In providing notice to taxpayers with respect to partnership proceedings, the IRS relies on information furnished by a party designated as the tax matters partner (TMP) of the partnership. The TMP is required to keep each partner informed of all administrative</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS to notify all partners of any resignation of the tax matters partner that is required by the IRS, and to notify the partners of any successor tax matters partner.</p> <p>Effective date.--Selections of tax matters partners made by the Secretary after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>6. Disclosure to taxpayers (sec. 3508 of the Senate amendment)</p>	<p>and judicial proceedings with respect to the partnership. Under certain circumstances, the IRS may require the resignation of the incumbent TMP and designate another partner as the TMP of a partnership.</p> <p>There is no requirement that the general tax forms instruction booklets include a description of conditions under which tax return information may be disclosed outside the IRS (including to States).</p>	<p>No provision.</p>	<p>The Senate amendment requires that general tax forms instruction booklets include a description of conditions under which tax return information may be disclosed outside the IRS (including to States). (Floor amendment by Sen. Roth (for Sen. Craig) adopted by unanimous consent.)</p> <p><u>Effective date.</u>--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>G. Low-Income Taxpayer Clinics (sec. 361 of the House bill and sec. 3601 of the Senate amendment)</p>	<p>There are no provisions in present law providing for assistance to clinics that assist low-income taxpayers.</p>	<p>The House bill provides that the Secretary is authorized to provide up to \$3,000,000 per year in matching grants to certain low-income taxpayer clinics. No clinic could receive more than \$100,000 per year. Eligible clinics would be those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language.</p> <p>A “clinic” includes (1) a clinical program at an accredited law school, in which students represent low-income taxpayers, or (2) an organization exempt from tax under Code section 501(c) which either represents low-income taxpayers or provides referral to qualified representatives.</p> <p>Effective date.--Date of enactment.</p>	<p>The Senate amendment is the same as the House bill, except that the Secretary is authorized to provide up to \$6,000,000 per year in matching grants. A clinic also includes an accredited business school or an accredited accounting school. Grants can also be made to volunteer income tax assistance programs. Grants can also be made to training and technical assistance programs, up to 7.5 percent of total amount available for grants, and without regard to the \$100,000 per clinic per year limitation. (Modified by floor amendment by Sen. Roth (for Sen. Bingaman) adopted by voice vote.)</p> <p>Effective date.--Same as the House bill.</p>
<p>H. Other Provisions</p>			

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>1. IRS employee contacts (sec. 3705 of the Senate amendment)</p>	<p>The IRS sends many different notices to taxpayers. Some (but not all) of these notices contain a name and telephone number of an IRS employee whom the taxpayer may call if the taxpayer has any questions.</p>	<p>No provision.</p>	<p>The Senate amendment requires that all IRS notices and correspondence contain a name and telephone number of an IRS employee whom the taxpayer may call. In addition, to the extent practicable and advantageous to the taxpayer, the IRS should assign one employee to handle a matter with respect to a taxpayer until that matter is resolved.</p> <p>The Senate amendment also requires that all IRS telephone helplines provide an option for any taxpayer questions to be answered in Spanish. (Modified by floor amendment by Senator Domenici adopted by voice vote.)</p> <p>Finally, the Senate amendment requires that all IRS telephone helplines provide an option for any taxpayer to talk to a live person in addition to hearing a recorded message. That person can then direct the taxpayer to other IRS personnel who can provide understandable information to the taxpayer.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>2. Use of pseudonyms by IRS employees (sec. 3706 of the Senate amendment)</p>	<p>The Federal Service Impasses Panel has ruled that if an employee believes that use of the employee's last name only will identify the employee due to the unique nature of the employee's last name, and/or nature of the office locale, then the employee may "register" a pseudonym with the employee's supervisor.</p>	<p>No provision.</p>	<p>(Modified by floor amendment by Senator Domenici adopted by voice vote.)</p> <p>Effective date.--Effective January 1, 2000. (Modified by floor amendment by Senator Dodd (for Senator Moynihan) adopted by voice vote.)</p> <p>The Senate amendment provides that an IRS employee may use a pseudonym only if (1) adequate justification, such as protecting personal safety, for using the pseudonym was provided by the employee as part of the employee's request and (2) management has approved the request to use the pseudonym prior to its use.</p> <p>Effective date.--Requests made after the date of enactment.</p>
<p>3. Conferences of right in the National Office of IRS (sec. 3707 of the Senate amendment)</p>	<p>In any matter involving the submission of a substantive legal matter involving a specific taxpayer to the National Office of the IRS, the taxpayer is entitled to at least one conference (the "conference of</p>	<p>No provision.</p>	<p>The Senate amendment gives a taxpayer the right to limit participation in its conference of right to IRS national office personnel.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>4. Illegal tax protester designations (sec. 3708 of the Senate amendment)</p>	<p>right”) at which it can explain its position.</p> <p>The IRS designates individuals who meet certain criteria as “illegal tax protesters” in the IRS master file.</p>	<p>No provision.</p>	<p><u>Effective date.</u>--Requests made after the date of enactment.</p> <p>The Senate amendment prohibits the use by the IRS of the “illegal tax protester” designation. Any extant designation in the individual master file (the main computer file) must be removed and any other extant designation (such as on paper records that have been archived) must be disregarded. The IRS is, however, permitted to designate appropriate taxpayers as nonfilers. The IRS must remove the nonfiler designation once the taxpayer has filed valid tax returns for two consecutive years and paid all taxes shown on those returns.</p> <p><u>Effective date.</u>--Date of enactment, except that the removal of any designation from the master file, is not required to begin before January 1, 1999. (Modified by floor amendment by Senator Dodd (for Senator Moynihan) adopted by voice vote.)</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>5. Provision of confidential information to Congress by whistleblowers (sec. 3709 of the Senate amendment)</p>	<p>Tax return information generally may not be disclosed, except as specifically provided by statute. The Secretary of the Treasury may furnish tax return information to the Committee on Finance, the Committee on Ways and Means and the Joint Committee on Taxation upon a written request from the chairmen of such committees. If the information can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, the information may be furnished to the committee only while sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.</p>	<p>No provision.</p>	<p>The Senate amendment allows any person who is (or was) authorized to receive confidential tax return information to disclose tax return information directly to the Chairman of the Senate Committee on Finance, the Chairman of the House Committee on Ways and Means, or the Chief of Staff of the Joint Committee on Taxation provided: (1) such disclosure is for the purpose of disclosing an incident of IRS employee or taxpayer abuse, and (2) the Chairman of the committee to which the information will be disclosed gives prior approval for the disclosure in writing.</p> <p>Effective date.--Date of enactment.</p>
<p>6. Listing of local IRS telephone numbers and addresses (sec. 3710 of the Senate amendment)</p>	<p>The IRS is not statutorily required to publish the local telephone number or address of its local offices.</p>	<p>No provision.</p>	<p>The Senate amendment requires the IRS, as soon as is practicable but no later than 180 days after the date of enactment, to publish addresses and local telephone numbers of local IRS offices in appropriate local telephone directories.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>7. Identification of return preparers (sec. 3711 of the Senate amendment)</p>	<p>Any return or claim for refund prepared by an income tax return preparer must bear the social security number of the return preparer, if such preparer is an individual.</p>	<p>No provision.</p>	<p>Effective date.--Date of enactment.</p> <p>The Senate amendment authorizes the IRS to approve alternatives to Social Security numbers to identify tax return preparers.</p> <p>Effective date.--Date of enactment.</p>
<p>8. Offset of past-due, legally enforceable State income tax obligations against overpayments (sec. 3712 of the Senate amendment)</p>	<p>Overpayments of Federal tax may be used to pay past-due child support and debts owed to Federal agencies, without the consent of the taxpayer. Such amount for past-due child support may be paid directly to a State. Present law provides that offsets are made in the following priority: (1) child support and (2) other Federal debts, in the order in which such debts accrued.</p>	<p>No provision.</p>	<p>The Senate amendment permits States to participate in the IRS refund offset program for specified past-due, legally enforceable State income tax debts, providing the person making the Federal tax overpayment has shown on the Federal return for the taxable year of the overpayment an address that is within the State seeking the tax offset. The offset applies after the offsets provided in present law for internal revenue tax liabilities, past-due support, and past-due, legally enforceable obligations owed a Federal agency. The offset occurs before the designation of any refund</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>9. Moratorium regarding regulations under Notice 98-11 (sec. 3713(a)(1) of the Senate amendment)</p>	<p>Under the subpart F provisions of the Code, the U.S. 10-percent shareholders of a controlled foreign corporation (“CFC”) generally are taxed currently on their pro rata shares of certain income of the CFC (so-called “subpart F income”). The foreign tax credit may reduce the U.S. tax on these amounts. A CFC generally is any foreign corporation if U.S. 10-percent shareholders own more than 50 percent of the corporation’s stock (by vote or value).</p> <p>Notice 98-11 addresses the treatment under subpart F of certain arrangements involving hybrid branches (i.e., an entity treated as part of a CFC for U.S. tax purposes and as separate</p>	<p>No provision.</p>	<p>toward future Federal tax liability. (Modified by floor amendment by Senators Kerrey and Grassley, adopted by voice vote.)</p> <p><u>Effective date.</u>--Federal income tax refunds payable after December 31, 1998.</p> <p>Under the Senate amendment, no temporary or final regulations with respect to Notice 98-11 may be implemented prior to six months after the date of enactment.</p> <p><u>Effective date.</u>--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>10. Sense of the Senate regarding Notices 98-5 and 98-11 (secs. 3713(a)(2) and (b) of the Senate amendment)</p>	<p>from the CFC for foreign tax purposes) which reduce foreign tax without creating subpart F income. Temporary and proposed regulations issued under Notice 98-11 include rules that treat certain payments between a CFC and its hybrid branch or between hybrid branches of the CFC as subpart F income. The rules also are applied to other hybrid branch arrangements involving partnerships. The regulations address the application of the same-country exception to the foreign personal holding company income rules under subpart F in the case of certain hybrid branch and hybrid partnership arrangements.</p> <p>Notice 98-11 addresses the treatment under subpart F of certain arrangements involving hybrid branches (i.e., an entity treated as part of a CFC for U.S. tax purposes and as separate from the CFC for foreign tax purposes) which reduce foreign tax without creating subpart F income. Temporary and</p>	<p>No provision.</p>	<p>The Senate amendment provides the sense of the Senate that Treasury and the IRS should withdraw Notice 98-11 and the regulations issued thereunder, and that the Congress, and not Treasury or the IRS, should determine the international tax policy issues relating to the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>proposed regulations issued under Notice 98-11 include rules that treat certain payments between a CFC and its hybrid branch or between hybrid branches of the CFC as subpart F income. The rules also are applied to other hybrid branch arrangements involving partnerships.</p> <p>Notice 98-5 addresses the treatment of certain types of transactions which create the potential for foreign tax credit abuse. Such transactions involve either the acquisition of an asset that generates income subject to a foreign withholding tax, or the duplication of tax benefits through certain structures which exploit inconsistencies between U.S. and foreign tax laws. The Notice states that regulations will be issued to disallow foreign tax credits in cases where the economic profit from a transaction is insubstantial in relation to the foreign tax credits from the arrangement.</p>		<p>treatment of hybrid transactions under subpart F.</p> <p>The Senate amendment also provides the sense of the Senate that Treasury and the IRS should limit any regulations issued under Notice 98-5 to the specific transactions described therein. In addition, such regulations should: (1) not affect transactions undertaken in the ordinary course of business, (2) not have an effective date any earlier than the date of issuance of proposed regulations, and (3) be issued in accordance with normal regulatory procedures which include an opportunity for comment.</p> <p><u>Effective date.</u>--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>11. Combined employment tax reporting demonstration project (sec. 3715 of the Senate amendment)</p>	<p>Traditionally, Federal tax forms are filed with the Federal government and State tax forms are filed with individual States. This necessitates duplication of items common to both returns.</p> <p>The Taxpayer Relief Act permitted implementation of a demonstration project to assess the feasibility and desirability of expanding combined reporting in the future. There are several limitations on the demonstration project. First, it is limited to the State of Montana and the IRS. Second, it is limited to employment tax reporting. Third, it is limited to disclosure of the name, address, TIN, and signature of the taxpayer, which is information common to both the Montana and Federal portions of the combined form. Fourth, it is limited to a period of five years.</p>	<p>No provision.</p>	<p>The Senate amendment authorizes a parallel demonstration project with Iowa. (Floor amendment by Sen. Grassley, adopted by voice vote.)</p> <p>Effective date.--Effective on the date of enactment and will expire on the date five years after the date of enactment.</p>
<p>12. Reporting requirements in connection with education tax credit (sec. 3716)</p>	<p>Individual taxpayers are allowed to claim a nonrefundable HOPE credit against Federal income taxes up to \$1,500 per student per year</p>	<p>No provision.</p>	<p>The Senate amendment modifies the information reporting requirements under section 6050S. In addition to reporting the aggregate amount</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>of the Senate amendment)</p>	<p>for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree program. A Lifetime Learning credit against Federal income taxes equal to 20 percent of qualified expenses (up to a maximum credit of \$1,000 per taxpayer return for 1998 through 2002 and \$2,000 per taxpayer return after 2002) is also available. Qualified tuition and related expenses do not include expenses covered by educational assistance that is not required to be included in the gross income of either the student or the taxpayer claiming the credit (e.g., scholarship or fellowship grants).</p> <p>Code section 6050S requires information reporting (as prescribed by Treasury Department regulations) by eligible educational institutions which receive payments for qualified tuition and related expenses, and certain other persons who make reimbursement or refunds of</p>		<p>of payments for qualified tuition and related expenses received by the educational institution with respect to a student, the institution must report any grant amount received by the student and processed through the institution during the applicable calendar year. The institution is not required to report on grant aid that is paid directly to the student and is not processed through the institution. In addition, an educational institution is required to report only the aggregate amount of reimbursements or refunds paid to a student by the institution (and not by any other party). (Floor amendment by Sen. Collins, adopted by voice vote.)</p> <p>Effective date.--The provision applies to returns required to be filed with respect to taxable years beginning after December 31, 1998.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>qualified tuition and related expenses, in order to assist students, their parents, and the IRS in calculating the amount of the HOPE and Lifetime Learning credits potentially available.</p>		

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
I. Studies			
1. Administration of penalties and interest (sec. 381 of the House bill and sec. 3801 of the Senate amendment)	<p>The last major comprehensive revision of the overall penalty structure in the Internal Revenue Code was the “Improved Penalty Administration and Compliance Tax Act,” enacted as part of the Omnibus Budget Reconciliation Act of 1989.</p>	<p>The House bill requires the Joint Committee on Taxation to conduct a study reviewing the administration and implementation of the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989, and making any legislative and administrative recommendations it deems appropriate to simplify penalty administration and reduce taxpayer burden.</p>	<p>The Senate amendment requires the Joint Committee on Taxation and the Treasury to each conduct a separate study reviewing the interest and penalty provisions of the Code, and making any legislative and administrative recommendations it deems appropriate to simplify penalty administration and reduce taxpayer burden.</p>
2. Confidentiality of tax return information (sec. 382 of the House bill and sec. 3802 of the Senate amendment)	<p>The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code. Unauthorized disclosure is a felony punishable by a fine not exceeding \$5,000 or imprisonment of not more than five years, or both. An action for civil damages also</p>	<p>Effective date.--The report must be provided not later than nine months after the date of enactment.</p> <p>The House bill requires the Joint Committee on Taxation to conduct a study on provisions regarding taxpayer confidentiality. The study is to examine:</p> <p>(1) present-law protections of taxpayer privacy,</p>	<p>Effective date.--The reports must be provided not later than nine months after the date of enactment.</p> <p>The Senate amendment requires the Joint Committee on Taxation and Treasury to each conduct a separate study on provisions regarding taxpayer confidentiality. The studies are to examine:</p> <p>(1) present-law protections of taxpayer privacy,</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>may be brought for unauthorized disclosure. No tax information may be furnished by the IRS to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives.</p>	<p>(2) the need for third parties to use tax return information, and</p> <p>(3) the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to file tax returns but does not do so.</p>	<p>(2) the need, if any, for third parties to use tax return information,</p> <p>(3) whether greater levels of voluntary compliance can be achieved by allowing the public to know who is legally required to file tax returns but does not do so,</p> <p>(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code with those elsewhere in the United States Code (such as the Freedom of Information Act),</p> <p>(5) whether return information should be disclosed to a State unless the State has first notified personally in advance each person with respect to whom information has been requested, and</p> <p>(6) the impact on taxpayer privacy of sharing tax information for the purposes of enforcing State and local tax laws (other than income tax</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>3. Transfer pricing enforcement (sec. 3803 of the Senate amendment)</p>	<p>Section 482 generally authorizes the Secretary of the Treasury to allocate income, deductions, credits or allowances between or among commonly controlled parties to prevent tax evasion or to clearly reflect income. Regulations under section 482 generally provide for certain transfer pricing methods that are used to determine whether prices for transactions between or among commonly controlled parties are based on arm's-length terms.</p>	<p>Effective date.--The findings of the study, along with any recommendations, are required to be reported to the Congress no later than one year after the date of enactment.</p> <p>No provision.</p>	<p>laws). (Modified by floor amendments by Sen. Craig, adopted by unanimous consent.)</p> <p>Effective date.--Same as the House bill.</p> <p>The Senate amendment directs the IRS Oversight Board to undertake a study on whether the IRS has the resources to prevent tax avoidance by companies using unlawful transfer pricing methods. The IRS also is directed to assist in the study by analyzing its enforcement of transfer pricing abuses, including the effectiveness of current enforcement tools used to ensure compliance with section 482 and the scope of nonpayment of U.S. taxes by reason of such abuses. The findings of the study, along with any recommendations, are required to be reported to the</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>4. Willful noncompliance with revenue laws by taxpayers (sec. 3804 of the Senate amendment)</p>	<p>No provision.</p>	<p>No provision.</p>	<p>Congress no later than one year after the date of enactment. (Floor amendment by Sen. Dorgan, adopted by unanimous consent.)</p> <p><u>Effective date.</u>—Date of enactment.</p> <p>The Senate amendment provides that the Joint Committee on Taxation, the Secretary of the Treasury and the Commissioner of the Internal Revenue Service must jointly conduct a study of taxpayers’ willful noncompliance with the tax law. The study must be reported to the Congress within one year of the date of enactment. (Floor amendment by Senator Kerrey, adopted by voice vote.)</p> <p><u>Effective date.</u>— -Date of enactment.</p>
<p>5. Payments for informants (sec. 3714 of the Senate amendment)</p>	<p>Under present law, rewards may be paid for information relating to civil violations, as well as criminal violations. Present law also provides that the rewards</p>	<p>No provision.</p>	<p>The Senate amendment requires a study and report by Treasury to the Congress (within one year of the date of enactment) of the present-law reward program</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>are paid out of the proceeds of amounts (other than interest) collected by reason of the information provided. An annual report on the rewards program is required.</p>		<p>(including results) and any legislative or administrative recommendations regarding the program and its application. (Floor amendment by Senators Kerry, Leahy and Ashcroft, adopted by voice vote.)</p> <p><u>Effective date.</u>- -Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>TITLE IV. CONGRESSIONAL ACCOUNTABILITY FOR THE IRS</p> <p>A. Review of Requests for GAO Investigations of the IRS (sec. 401 of the House bill)</p>	<p>There is no specific statutory requirement that requests for investigations by the General Accounting Office (“GAO”) relating to the IRS be reviewed. However, some of the studies that GAO conducts relating to taxation and oversight of the IRS require access under section 6103 of the Code to confidential tax returns and return information. The GAO may inform the Joint Committee on Taxation of its initiation of an audit of the IRS and obtain access to confidential taxpayer information unless, within 30 days, 3/5ths of the Members of the Joint Committee disapprove of the audit. This provision has not been utilized; the GAO generally seeks advance access to confidential taxpayer return information from the Joint Committee.</p>	<p>Under the House bill, the Joint Committee on Taxation reviews all requests (other than requests by the chair or ranking member of a Committee or Subcommittee of the Congress) for investigations of the IRS by the GAO and approves such requests when appropriate. In reviewing such requests, the Joint Committee is to eliminate overlapping investigations, ensure that the GAO has the capacity to handle the investigation, and ensure that investigations focus on areas of primary importance to tax administration.</p> <p><u>Effective date.</u>--Requests for GAO investigations made after the date of enactment.</p>	<p>No provision.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
B. Joint Congressional Hearings and Coordinated Oversight Reports (secs. 401 and 402 of the House bill)	<p>Under the present Congressional committee structure, 6 committees have jurisdiction with respect to various matters relating to the IRS: the House Committees on Ways and Means, Appropriations, Government Reform and Oversight, and the corresponding Senate Committees on Finance, Appropriations, and Governmental Affairs.</p>	<p>Under the House bill, there will be two annual joint hearings of two majority and one minority members of each of the Senate Committees on Finance, Appropriations, and Governmental Affairs and the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight. The first annual hearing is to take place before April 1 of each calendar year and is to review the strategic plans and budget for the IRS (including whether the budget supports IRS objectives). The second annual hearing is to be held after the conclusion of the annual tax filing season, and is to review: (1) the progress of the IRS in meeting its objectives under the strategic and business plans; (2) the progress of the IRS in improving taxpayer service and compliance; (3) the progress of the IRS on technology modernization; and (4) the annual filing season.</p>	<p>No provision.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
C. Budget Matters		<p>The House bill provides that the Joint Committee on Taxation is to make annual reports to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable. The Joint Committee also is to report annually to the Senate Committees on Finance, Appropriations, and Governmental Affairs and the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight with respect to the matters that are the subject of the annual joint hearings of members of such Committees.</p> <p><u>Effective date.</u>--Date of enactment.</p>	

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>1. Funding for century date change (sec. 411 of the House bill and sec. 4001 of the Senate amendment)</p>	<p>No specific provision.</p>	<p>The House bill provides that it is the sense of the Congress that the IRS efforts to resolve the century date change computing problems should be fully funded to provide for certain resolution of such problems.</p> <p>Effective date.--The provision is effective on the date of enactment.</p>	<p>The Senate amendment provides that it is the sense of the Congress that the IRS should place a high priority on resolving century date change problems. In addition, the Commissioner is directed to submit expeditiously a report to the Congress on the impact of the legislation on the ability of the IRS to resolve century date change problems and provisions that will require significant amounts of computer programming prior to December 31, 1999.</p> <p>Effective date.--Same as the House bill.</p>
<p>2. Financial management advisory group (sec. 412 of the House bill)</p>	<p>No provision.</p>	<p>The House bill directs the Commissioner to convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues.</p>	<p>No provision.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>Effective date.</u>--The provision is effective on the date of enactment.</p>	

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>D. Tax Law Complexity Analysis (secs. 421 and 422 of the House bill and sec. 4002 of the Senate amendment)</p>	<p>Present law does not require a formal complexity analysis with respect to changes to the tax laws.</p>	<p><u>Role of the IRS.</u>--The House bill provides that it is the sense of the Congress that the IRS should provide the Congress with an independent view of tax administration and that the tax-writing committees should hear from front-line technical experts at the IRS during the legislative process with respect to the administrability of pending amendments to the Internal Revenue Code.</p>	<p><u>Role of the IRS.</u>--Under the Senate amendment, the IRS is required to report to the House Ways and Means and Senate Finance Committees annually regarding sources of complexity in the tax laws. Factors the IRS may take into account are: (1) questions frequently asked by taxpayers with respect to return filing; (2) common errors made by taxpayers; areas of law which frequently result in disagreements between taxpayers and the IRS; (3) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain; (4) areas in which revenue agents make frequent errors in interpreting or applying the law; (5) impact of recent legislation on complexity; and (6) IRS forms, including the time it takes for taxpayers to complete and review forms, the number of taxpayers who use each form, and how recently enacted legislation affected the time it</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p><u>Complexity analysis.</u>--The House bill requires the staff of the Joint Committee on Taxation to provide a complexity analysis for legislation reported by the Senate Committee on Finance and the House Committee on Ways and Means and conference reports amending the tax laws. The complexity analysis is to identify those provisions in the bill or conference report that, as determined by the staff of the Joint Committee, add significant complexity to the tax laws, or provide significant simplification. The complexity analysis is required to include a discussion of the basis for the determination by the staff of the Joint Committee. It is expected that, in general, the complexity analysis will be</p>	<p>takes to complete and review forms. The report is also to include recommendations for reducing complexity of the administration of the tax laws.</p> <p><u>Complexity analysis.</u>--The Senate amendment requires the Joint Committee on Taxation, in consultation with the IRS and the Treasury, to include a complexity analysis in legislation reported by the Senate Finance or House Ways and Means Committees and conference reports amending the tax laws. The complexity analysis is to include a report on the complexity and administrative difficulties of provisions which have widespread applicability to individuals or small business. The analysis is to include an estimate of the number of taxpayers affected by the provision and, if applicable, the income level of taxpayers affected by the provision. The analysis should include (if determinable) (1) the extent to</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>limited to no more than 20 provisions. If the staff of the Joint Committee determines that a bill or conference report does not contain any provisions that add significant complexity or simplification to the tax laws, then the complexity analysis is to contain a statement to that effect.</p> <p>Factors that may be taken into account by the staff of the Joint Committee in preparing the complexity analysis include the following: (1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the IRS provided input as to its administrability; (2) when the provision becomes effective and corresponding compliance requirements on taxpayers; (3) whether new IRS forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient</p>	<p>which tax forms would require reviews and whether any new forms would be required; (2) the extent to which taxpayers would be required to keep additional records; (3) the estimated cost to taxpayers to comply; (4) the extent to which the IRS will be required to develop or modify regulatory guidance; (5) the extent to which the provision may result in disagreements between taxpayers and the IRS; and (6) the expected impact on the IRS.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>time for the IRS to prepare such forms and educate taxpayers; (4) necessity of additional interpretive guidance (e.g., regulations, rulings, notices); (5) the extent to which the proposal relies on concepts contained in existing law, including definitions; (6) effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral response, and standard business practices and resource requirements; (7) number, type, and sophistication of affected taxpayers; and (8) whether the proposal requires the IRS to assume responsibilities not directly related to raising revenue which could be handled through another Federal agency.</p> <p>The House bill requires the Commissioner to provide the Joint Committee with such information as is necessary to</p>	

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
		<p>prepare each required complexity analysis.</p> <p>A point of order arises with respect to the floor consideration of a bill or conference report that does not contain the required complexity analysis. The point of order may be waived by a majority vote.</p> <p><u>Effective date.</u>—The provision relating to IRS participation in drafting is effective on the date of enactment. The requirement for a tax complexity analysis is effective with respect to legislation considered on or after January 1, 1998.</p>	<p><u>Effective date.</u>—The provision relating to the IRS study is effective on the date of enactment. The requirement for a tax complexity analysis is effective with respect to legislation considered on or after January 1, 1999.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>TITLE V. REVENUE OFFSETS</p> <p>A. Employer Deductions for Vacation and Severance Pay (sec. 501 of the House bill and sec. 5001 of the Senate amendment)</p>	<p>In general, contributions under a deferred compensation plan (other than certain pension, profit-sharing and similar plans) are deductible in the taxable year in which an amount attributable to the contribution is includible in income of the employee. Vacation pay which is treated as deferred compensation is deductible for the taxable year of the employer in which the vacation pay is paid to the employee.</p> <p>A plan, method or arrangement is not considered to defer the receipt of compensation or benefits to the extent that compensation or benefits are received by the employee on or before the 15th day of the 3rd calendar month after the end of the employer’s taxable year (the “applicable 2-1/2 month period”.</p>	<p>The House bill overrules <u>Schmidt Baking</u> with respect to compensation (other than severance pay). The bill provides that, for purposes of determining whether an item of compensation (other than severance pay), is deferred compensation, the compensation is not considered to be paid or received until actually received by the employee. In addition, an item of deferred compensation is not considered paid to an employee until actually received by the employee.</p> <p>Under the House bill, arrangements similar to those under <u>Schmidt Baking</u>, such as trust arrangements, do not constitute actual receipt by the employee, even if there is an income inclusion on the part of employees.</p>	<p>Same as the House bill, except that the provision also applies to severance pay as well as other types of compensation.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
	<p>In <u>Schmidt Baking Co., Inc.</u>, 107 T.C. 271 (1996), the taxpayer provided for its accrued vacation and severance pay liabilities by purchasing an irrevocable letter of credit after the end of the taxable year but within the applicable 2-1/2 month period. The Tax Court held that severance pay and vacation pay were paid to employees within the applicable 2-1/2 month period and were not deferred compensation. Thus, the vacation pay and severance pay were deductible by the taxpayer for the taxable year pursuant to its normal accrual method of accounting.</p>	<p><u>Effective date.</u>--Taxable years ending after October 8, 1996.</p>	<p><u>Effective date.</u>--Taxable years ending after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
B. Modify Foreign Tax Credit Carryover Rules (sec. 5002 of the Senate amendment)	<p>U.S. persons may credit foreign taxes against U.S. tax on foreign-source income. The amount of foreign tax credits that can be claimed in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S.-source income. The amount of creditable taxes paid or accrued (or deemed paid) in any taxable year which exceeds the foreign tax credit limitation is permitted to be carried back two years and forward five years. The amount carried over may be used as a credit in a carryover year to the extent the taxpayer otherwise has excess foreign tax credit limitation for such year.</p>	<p>No provision.</p>	<p>The Senate amendment reduces the carryback period for excess foreign tax credits from two years to one year. The excess foreign tax credit carryforward period is extended from five years to seven years.</p> <p>Effective date.--Foreign tax credits arising in taxable years beginning after December 31, 1998. (Floor amendment by Sen. Roth, adopted by roll call vote of 56-42.)</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>C. Clarify and Expand Mathematical Error Procedures (sec. 5003 of the Senate amendment)</p>	<p>The IRS may deny a personal exemption for a taxpayer, the taxpayer’s spouse or the taxpayer’s dependents if the taxpayer fails to provide a correct taxpayer identification number (“TIN”) for each person for whom the taxpayer claims an exemption. Other tax benefits including the adoption credit, the child credit, the Hope scholarship credit and Lifetime Learning credit, and the earned income credit also have TIN requirements. Under the mathematical and clerical error procedure, the IRS may summarily assess additional tax due as a result of the omission of a correct TIN for purposes of personal exemptions and all of the credits listed above except for the adoption credit.</p>	<p>No provision.</p>	<p>The Senate amendment provides that a correct TIN is one assigned by the Social Security Administration (or in certain limited cases, the IRS) to the individual identified on the return. The IRS is authorized to: (1) determine that the individual identified on the tax return corresponds in every aspect (including name, age, date of birth, and SSN) to the individual to whom the TIN is issued, and (2) to use the mathematical and clerical error procedure to deny eligibility for the dependent care tax credit, the child tax credit, and the earned income credit even though a correct TIN has been supplied if the IRS determines that the statutory age restrictions for eligibility for any of the respective credits is not satisfied.</p> <p><u>Effective date.</u>--Taxable years ending after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>D. Freeze Grandfather Status of Stapled REITs (sec. 5004 of the Senate amendment)</p>	<p>Under present law, a real estate investment trust ("REIT") is an entity that receives most of its income from passive real estate-related investments and which does not engage in any active trade or business. A REIT essentially receives pass-through treatment for income that is distributed to shareholders. In general, a REIT must derive its income from passive sources and not engage in any active trade or business. In a stapled REIT structure, both the shares of a REIT and a C corporation may be traded, but are subject to a provision that they may not be sold separately. Under the Deficit Reduction Act of 1984 ("1984 Act"), the tax benefits of the stapled REIT structure were curtailed for almost all taxpayers; however, certain existing REITs that were stapled at that time received indefinite grandfather relief.</p>	<p>No provision.</p>	<p>The Senate amendment limits the tax benefits of a few stapled REITs that continue to qualify under the 1984 Act's grandfather rule. The Senate amendment generally treats a REIT and all stapled entities as a single entity for purposes of determining REIT status with respect to real property interests acquired after March 26, 1998, by the stapled REIT, a stapled entity, or a subsidiary or partnership in which a 10-percent or greater interest is owned (together referred to as the "REIT group"), unless the real property interest is acquired pursuant to certain binding commitments. Different rules apply to certain mortgage interests acquired by the REIT group after March 26, 1998, where a member of the REIT group performs services with respect to the property secured by the mortgage.</p> <p>Effective date.--Taxable years ending after March 26, 1998.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>E. Make Certain Trade Receivables Ineligible for Mark-to-Market Treatment (sec. 5005 of the Senate amendment)</p>	<p>Under present law, dealers in securities are required to use a mark-to-market method of accounting for securities. A dealer in securities includes a taxpayer who regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business. A security includes any evidence of indebtedness. Treasury regulations provide that if a taxpayer would be a dealer in securities only because of its purchases and sales of "customer paper," the taxpayer will not normally be treated as a dealer in securities (Treas. reg. sec. 1.475(c)-1(b)). However, the regulations allow such a taxpayer to elect dealer status.</p>	<p>No provision.</p>	<p>The Senate amendment provides that certain trade receivables are not eligible for mark-to-market treatment. A trade receivable is covered by the provision if it is a note, bond or debenture arising out of the sale of goods by a person the principal activity of which is selling or providing non-financial goods and services and it is held by such person or a related person at all times since it was issued.</p> <p><u>Effective date.</u>--Taxable years ending after the date of enactment. Adjustments required under section 481 as a result of this change are to be taken into account ratably over a 4-year period.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
F. Add Vaccines Against Rotavirus Gastroenteritis to the List of Taxable Vaccines (sec. 5006 of the Senate bill)	<p>A manufacturer's excise tax is imposed at the rate of 75 cents per dose on the following vaccines routinely recommended for administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, and varicella (chicken pox). Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund.</p>	<p>No provision.</p>	<p>The Senate amendment adds any vaccine against rotavirus gastroenteritis to the list of taxable vaccines.</p> <p><u>Effective date.</u>--Vaccines sold by a manufacturer or importer after the date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>G. Restrict Special Net Operating Loss Carryback Rules For Specified Liability Losses (sec. 5007 of the Senate amendment)</p>	<p>The portion of a net operating loss that is a “specified liability loss” may be carried back 10 years rather than being limited to the general 2-year carryback period. A specified liability loss includes amounts allowable as a deduction with respect to product liability, and also certain liabilities that arise under Federal or State law or out of any tort of the taxpayer. There are requirements that the act (or failure to act) giving rise to the liability must occur generally at least 3 years before the beginning of the taxable year. The proper interpretation of the provision has been the subject of controversy.</p>	<p>No provision.</p>	<p>Under the Senate amendment, specified liability losses are defined and limited to include (in addition to product liability losses) only amounts allowable as a deduction that are attributable to a liability that arises under Federal or State law for reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore oil drilling platform, remediation of environmental contamination, or payment of workers’ compensation; and with respect to which the act or failure to act giving rise to such liability occurs at least 3 years before the beginning of the taxable year. No inference regarding the interpretation of the specified liability loss carryback rules under present law is intended. (Floor amendment by Sen. Roth, adopted by roll call vote of 56-42).</p> <p><u>Effective date.</u>--The provision is effective for net operating losses arising in taxable years</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			beginning after the date of enactment.

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>H. Exclusion of Minimum Required Distributions from AGI for Roth IRA Conversions (sec. 5008 of the Senate amendment)</p>	<p>Distributions from an IRA are required to begin no later than April 1 of the calendar year in which the IRA owner attains age 70-1/2. In general, minimum required distributions are includible in gross income in the year of distribution.</p> <p>All or any part of amounts in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with adjusted gross income (“AGI”) of \$100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.</p>	<p>No provision.</p>	<p>The Senate amendment excludes minimum required distributions from IRAs from the definition of AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income. (Floor amendment by Sen. Roth, adopted by a vote of 56 to 42.)</p> <p>Effective date.—Taxable years beginning after December 31, 2004.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>I. Extension of IRS User Fees (sec. 5009 of the Senate amendment)</p>	<p>The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes in the form of ruling letters, determination letters, opinion letters, and other similar rulings or determinations. The IRS is directed by statute to establish a user fee program with respect to such rulings and determinations. Pursuant to this statutory authorization, the IRS establishes a schedule of user fees. The statutory authorization for the IRS user fee program is in effect for requests made before October 1, 2003 (P.L. 104-117).</p>	<p>No provision.</p>	<p>The Senate amendment extends the IRS user fee program for requests made before October 1, 2007. (Floor amendment by Sen. Roth, adopted by roll call vote of 56-42.)</p> <p><u>Effective date.</u>--Date of enactment.</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
<p>J. Clarify Definition Of “Subject To” Liabilities Under Section 357(c) (sec. 3301A of the Senate amendment)</p>	<p>The transferor of property recognizes no gain or loss if the property is exchanged solely for qualified stock in a controlled corporation (sec. 351). Code section 357 (c) provides that the transferor generally recognizes gain to the extent that the sum of the liabilities assumed by the controlled corporation and the liabilities to which the transferred property is subject exceeds the transferor’s basis in the transferred property. If the transferred property is “subject to” a liability, Treasury regulations have indicated that the amount of the liability is included in the calculation regardless of whether the underlying liability is assumed by the controlled corporation. Section 357(c) also applies to reorganizations described in section 368(a)(1)(D). Present law does not clearly define what “transferred subject to a liability” means.</p>	<p>No provision.</p>	<p>Under the Senate amendment, the distinction between the assumption of a liability and the acquisition of an asset subject to a liability is eliminated. A liability is treated as having been assumed to the extent that, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement). In the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee is treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability. No inference regarding the tax treatment under present law is intended. (Floor amendment by Sen. Roth, for Sen. Graham, adopted by unanimous consent).</p>

<i>Item</i>	<i>Present Law</i>	<i>House Bill</i>	<i>Senate Amendment</i>
			<p><u>Effective date.</u>--Transfers after the date of enactment.</p>